Capitol Celebrity: Tom Hayden's Swan Song

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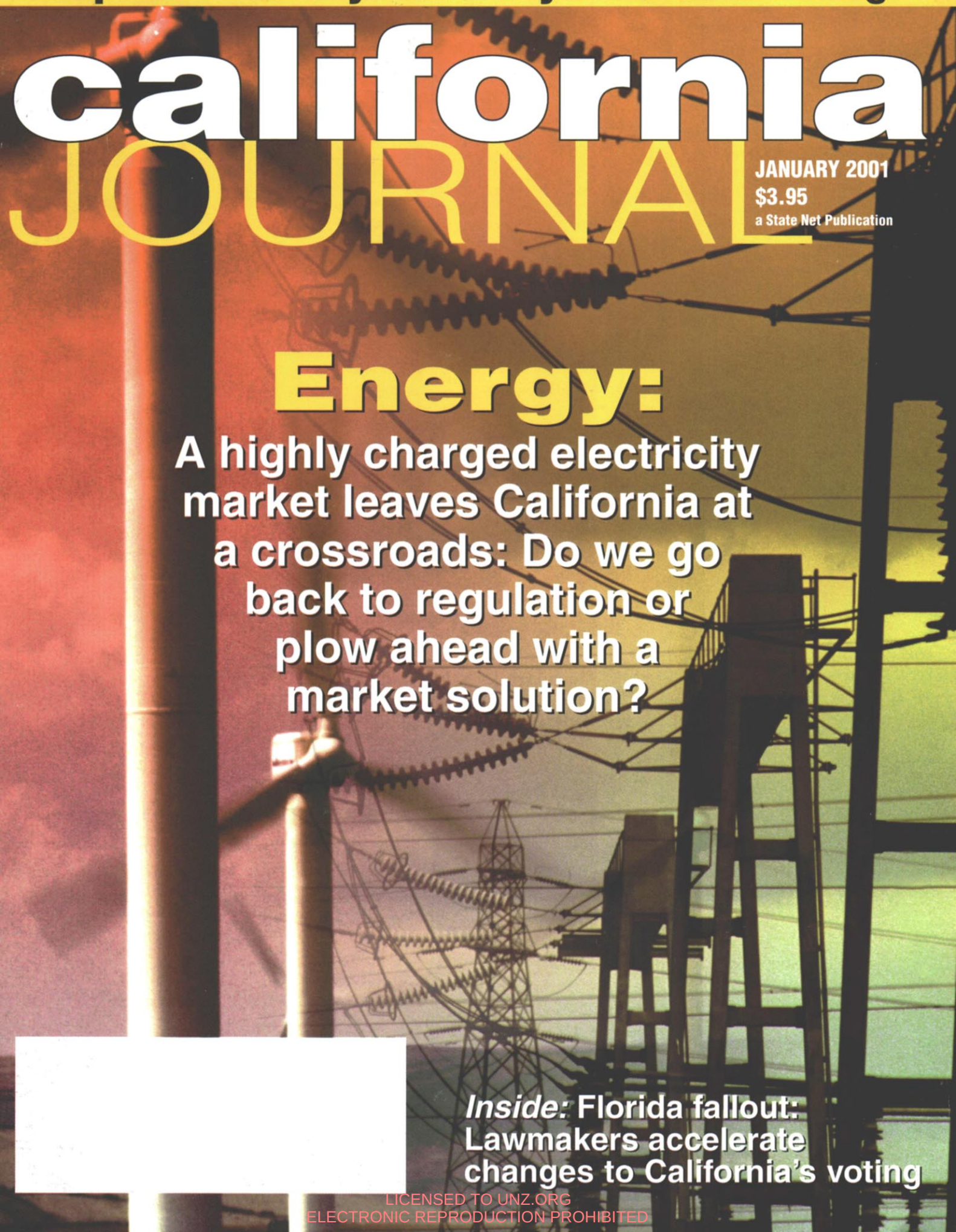

Energy:

A highly charged electricity market leaves California at a crossroads: Do we go back to regulation or plow ahead with a market solution?

Inside: Florida fallout: Lawmakers accelerate changes to California's voting

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Upfront
Senator Peace is spinning; Mayor Willie's restless

Rostrum
Readers sound off

Talking Points
Term-limited goodbyes and Labor's No. 1 asset

D.C. Perspective
Can a divided U.S. Senate learn to share?
By Marc Sandalow

Making a difference

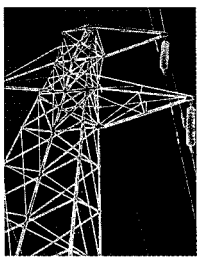
Of all places, our frequent contributor Max Vanzi has been invited to Florida by a panel of judges. No, he's not been asked to go as an election observer, but as an award-winner to collect a prize for a first-rate piece of journalism he wrote for us. Max did the cover story on gun control ("Gun control is on a roll. Will Gray Davis put a stop to it?") in the *Journal's* March 2000 edition. It's this story that the National Council on Crime and Delinquency will honor at its PASS (Prevention for a Safer Society) Awards presentation in Miami next month.

In notifying Max of the recognition, Barry Krisberg, the council's president, told him the Oakland-based organization honors journalists who've made "an important contribution toward raising the public's awareness and understanding of our criminal justice system....We want to inspire hope and participation by informing citizens of model prevention programs."

By Cynthia H. Craft

Now with the state capitol's Senate Office of Research, Max has a world of professional experience behind him, having been a foreign correspondent for United Press International, and then an editor and writer at the *Los Angeles Times*, most recently in its Sacramento Bureau. We're honored to have been the venue for his award-winning work – work that, as the council said, can make a difference.

Deregulation on the skids



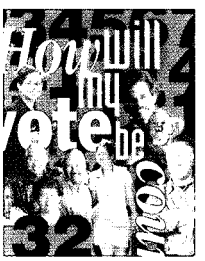
With soaring electricity rates jolting homeowners and businesses alike, all eyes are on the governor and the Legislature to make things right.
By Richard Nemec

Lawmakers tackle electric debacle

Looming on the legislative horizon, a mountain of bills to deal with California's electricity woes.
By Noel Brinkerhoff

Energy alternatives

California's electricity deregulation fiasco has legislators and regulators looking more closely at less volatile sources, including wind, solar and fuel cells.
By Peter Asmus



Fallout from Florida

In the wake of last year's presidential balloting blunders, California lawmakers are clamoring for new ways of casting votes.
By Claudia Buck

Poll workers: A dying breed?

Beleaguered election officials increasingly scramble to find enough staffers to work the polls on Election Day.
By Claudia Buck

Hayden's swan song

Despite nearly 20 years in the Legislature, Tom Hayden — Vietnam War activist and political renegade — remained ever the outsider.
By Emelyn Rodriguez

Gambling on public schools

Is the state's reform plan for straightening out its low- achieving schools putting too much at risk?
By Emelyn Rodriguez

By Dagmar Thompson

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umbrage

Attack of the killer myths. In choosing our 2000 Legislator of the Year, we credited Senator Steve Peace (D-El Cajon) for his work as the architect of California's electric deregulation law. Well, excuuuse us. Now Peace is saying he wasn't the "architect" of deregulation after all — in fact, he never *ever* liked the idea of opening up California's electrical market to competition. This, according to a video that's been circulating the Capitol in recent weeks — a video produced by none other than Peace himself, the man who gave us "Attack of the Killer Tomatoes." With the Legislature searching for ways to avoid a repeat of last summer's outcry over high-tension utility bills, the video, according to its narrator, seeks to set "the record straight" and keep "institutional memory accurate" as lawmakers forge ahead with fixes to California's ground-breaking 1996 deregulation law, AB 1890. The video identifies several "myths" that have supposedly surrounded dereg these past five years, such as the notion that the *Legislature* is the one to blame for uncoupling the state's electrical industry. Instead, the video contends it was everyone else's fault — the California Public Utilities Commission, former Governor Pete Wilson, Congress, etc. Nor was Peace the "architect" of dereg, according to the video, but instead was merely the "amender" of the plan as first proposed by the PUC. Now, in the name of accuracy, it is correct that Peace did not draft the original dereg blueprint. The PUC, indeed, got the ball rolling before the Legislature stepped in — with Wilson weighing in heavily over the entire proceedings. And, to Peace's credit, he did get the rate freeze added to the bill to help out consumers. But to characterize Peace, as the video does, as merely "a reluctant participant" is like saying Douglas MacArthur was a bit player in the recapture of the Philippines. This is the man whose tireless push as chairman of the AB 1890 conference committee had lobbyists dubbing the process "the Peace death march." He had his hands in every aspect of negotiations and signed off on everything included in the bill. So, why has Peace produced this little bit of revisionist history? Well, the guy will be termed out in two years and is rumored to be eyeing a run for statewide office in 2002. But such a run will be awfully tough as long as he has "architect of dereg" tattooed on his political resume. Perhaps he should look into laser surgery.

The allocating Ayatollah. Poor Willie Brown. The guy must be bored to tears. One would think being the mayor of San Francisco would mean nothing but work, work and more work. But, evidently, Da Maya has enough time on his hands for a second job — say, heading up the California Democratic Party. According to the *San Francisco Chronicle*, Brown has been sounding out party bigwigs about running for chairman in March when Art Torres steps down — even though Brown's term as mayor won't expire until 2004. A Brown spokesman says the mayor is "vitally concerned" that the right person succeed Torres — namely, Brown. It's not difficult to figure out why the former "Ayatollah of the Assembly" would want the chairmanship job. With the passage of the campaign finance measure, Proposition 34, the state's political parties will now be in charge of doling out dollars to candidates — a power Brown once enjoyed during his halcyon days as speaker. There's only one teensy-weensy problem with Brown's moonlighting plan. According to the San Francisco city charter, the mayor "shall serve full time" and not devote time to "any other occupation or business activity."

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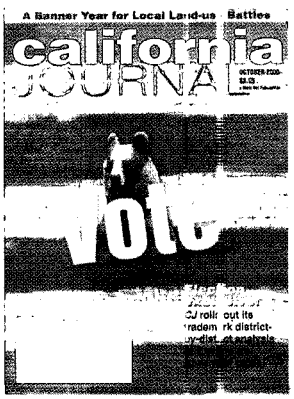
letters

In community colleges, money is the issue

I was stunned by the "Soapbox" editorial (October 2000) in which Keith Atwater states that much of our community college education occurs in a "cheap, shoddy way" because it is being taught by part-time teachers. This is an insult to thousands of dedicated teachers and to their hard-working students.

When I was on the [California Community Colleges] Board of Governors, our Chancellor's Office conducted a comprehensive study which showed that the education delivered by part-time teachers was consistently as good as, and many times better than, the education provided by full-time teachers. Part-timers have current real world experience and are eager to share it with their students.



The real issue is not quality of education or the so-called "education environment" — it is money, pure and simple. Teachers' unions are the most powerful influence in community colleges and have driven salaries to twice what free-market conditions would require for hiring competent staff. Mr. Atwater and other part-timers naturally want to make those inflated wages. That's why there's a huge list of candidates for nearly every opening.

Using part-timers keeps overall faculty salaries at reasonable limits and thus makes education available to many students who could not otherwise get it. It also lets administrators closely monitor faculty performance, eliminating poorly performing teachers.

Tim Haidinger, past president
Board of Governors,
California Community Colleges
San Diego

Health care: getting more children covered

Thanks for the excellent article, "Campaigning on Health Care: Are Promises Enough?" (November, 2000). Although as you point out, California has thousands of adults who are not eligible for any subsidized health care, the children in the two families described are probably eligible for either Medi-Cal or Healthy Families.

Along with the need to cover more adults, the state should focus on a comprehensive outreach and enrollment plan that reaches working families and answers their questions about our complex health-care system. It is a tragedy that so many people do not know that no-cost or low-cost health insurance coverage is available for children.

Children in families making up to approximately $42,625 in annual income for a family of four qualify, and often families qualify at even higher incomes due to the ability to take deductions for certain work expenses and higher limits for larger families. (To get an application, families can call 1-888-747-1222).

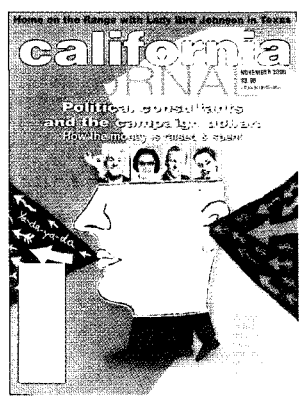
It is also a serious problem that, although enrolling in Medi-Cal or Healthy Families will not adversely impact most families' immigration status, thousands of families are afraid to come forward. Families need better information about these programs and need to be reassured about the confidentiality of their applications. Medi-Cal for children and the Healthy Families program are available for working families in California, and all eligible children should be enrolled.

Deena Lahn
Children's Defense Fund
Oakland

Where was affordable housing?

I was most disappointed in your recent poll addressing the Bay Area ["What's on the minds of Californians: Key issues across the state" November 2000]. The poll could not have been taken too recently because perhaps the No.1 issue, affordable housing, is missing.

You list "transportation" as a concern. Much of the traffic consists of people commuting from a distance because they can't afford to live here.



You list "education" as a concern. We lose all of the teachers we train because they soon move to where they can actually [afford to] live within the community they teach. Likewise, schools are impossible to build or expand in the land boom. We can't even begin to discuss proper child care.

Housing is the killer issue in the Bay Area. Our stores are empty of help because the people who work for that wage can't live here anymore.

Please visit again and take another poll.

Jeff Rensch
Volunteer, Peninsula Interfaith Action
Palo Alto

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Term Limits:

Bon voyage

Term limits swept 32 California legislators from office last month, with some simply sliding into new elected seats in today's perpetual game of political musical chairs.

Of those who left the state Capitol, one said in effect "good riddance" (former GOP Assemblyman Steve Baldwin told a San Diego reporter he'd only return to Sacramento under court order). Others were saddened and nostalgic. Still others were busily involved in the details of their new lives.

One former veteran of the Assembly and state Senate sailed off into the sunset with style. Literally. While his replacement, Sheila Kuehl, was being sworn in to represent the 23rd Senate District in West Los Angeles, former Democratic lawmaker Tom Hayden rode aboard a Holland America Line cruise ship on a seven-day tour through the western Caribbean. Hayden was one of nine featured speakers giving talks during a third annual seminar cruise sponsored by "The Nation," a New York-based progressive magazine. Also on board: Molly Ivins, Barbara Kingsolver, Studs Terkel, Jim Hightower and Calvin Trillin, a virtual think tank of liberals on a luxury ocean cruise.

Let's hope all had the good sense to steer clear of discussing the gap between haves and have-nots.

Reality Check:

Word play on smog

It comes as no surprise that California strives for a business-friendly climate, but isn't certifying a big hunka metal like the Chevy Suburban as a low-emission vehicle going just a bit too far?

That was the question posed on National Public Radio's "Marketplace" program recently, with the commentator implying that perhaps overexposure to smog had finally impacted the brain patterns of California's air-quality regulators.

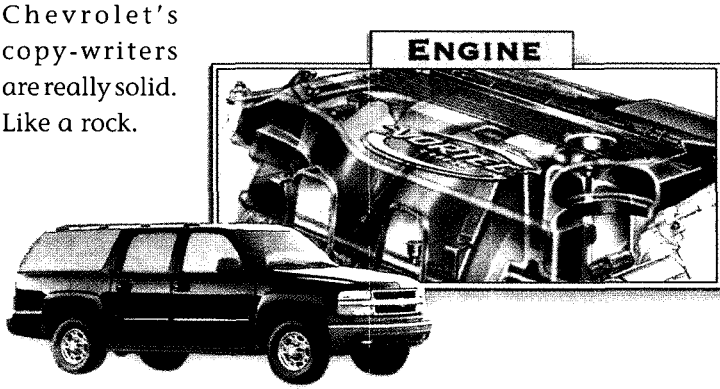
Jerry Martin, spokesman for the California Air Resources Board, took umbrage. "They made it sound like the certification defies logic. How can we explain this to a questioning public?"

Best to be as straightforward as possible, Jerry.

See, the Chevrolet Suburban *does* meet the CARB's rock-bottom, low- emission minmum standards — for trucks. The catch is that trucks are still allowed to spit out more than twice as much pollution as cars. So a "low-emission" truck engine is at least two times dirtier than a "low-emission" car engine, says Martin.

"Since our whole smog-reduction program is called 'low-emission,' they can say they meet it," said Martin. "It's not that we think the trucks are neat and tidy."

Some new trucks — including models from Chrysler, Ford, Jeep, Dodge and Toyota — do go above and beyond the call of duty to meet even tougher standards. But in the Suburban's case, Martin says, the declaration is but a case of clever marketing. You could say that Chevrolet's copy-writers are really solid. Like a rock.



Quotables.....

"Tonight, while some Californians are going without power, let the light in our hearts represent the true spirit of the season."

— Governor Gray Davis, lighting the Capitol's outdoor Christmas tree for just 30 minutes to save electricity.

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Election Trends:

What went right....

Florida, schmorida. Here in California, the presidential election was decisive: 64-to-28 percent for Al Gore over George W. Bush. Such a no-nonsense margin, as America has learned in recent weeks, is no less than a luxury. And it's a sure bet that the landslide materialized at least in part because of the dedication of such get-out-the-vote phone-bank volunteers as David Chavez of Sacramento.

Chavez, an 82-year-old retired ironworker, might as well be dubbed Secret Weapon No. 1 of the Sacramento region's labor union Campaign 2000 effort. Actually, the title that union bosses gave Chavez was "Motor-mouth of the Year," says Jim Murphy, the business manager of the Ironworkers Local 118. "He has taken it upon himself to spread the message, like an ambassador," said Murphy. "His activism is enviable. Nobody puts forth what he does. He makes all of us feel inferior."

Noting that many volunteers called union households, Tom Larson, head of the Sacramento Central Labor Council, singled out Chavez for "a special thanks" for phoning more than 2,000 potential voters.

It was nothing, says Chavez. "In the evenings, I just went to the phone bank from 5 to 8 every night, except Fridays. It was a good experience. Most people are down to earth and like to talk."

While many of Chavez' fellow callers referred to talking points, the former 40-year ironworker says he ad-libbed. "I'd just tell them what I think," he said. "Sometimes I got some pretty good arguments right back." Chavez' commitment to labor causes — notably workplace safety — was fortified in 1994, when his son, also an ironworker, tragically died in a fall from a building.

There's no arguing that all stakeholders in elections — whether union or corporate, Republican or Democrat — would love to get their hands on the *mold* that made David Chavez.

— Compiled by CJ Editors

By the numbers

In the aftermath of term limits

6 Number of years legislative term limits have been in effect in Sacramento.

18 Number of women serving in the state Legislature 10 years ago, before term limits.

29 Number of women in the state Legislature today, after a decade of term limits.

6 Number of Latinos serving in the state Legislature 10 years ago, before term limits.

14 Number of Latinos in the state Legislature today, after a decade of term limits.

9 Number of African-Americans serving in the Legislature 10 years ago.

5 Number of African-Americans in the state Legislature today.

34 Number of Republicans serving in the state Legislature 10 years ago.

20 Number of Republicans serving in the state Legislature today.

Source: California Journal

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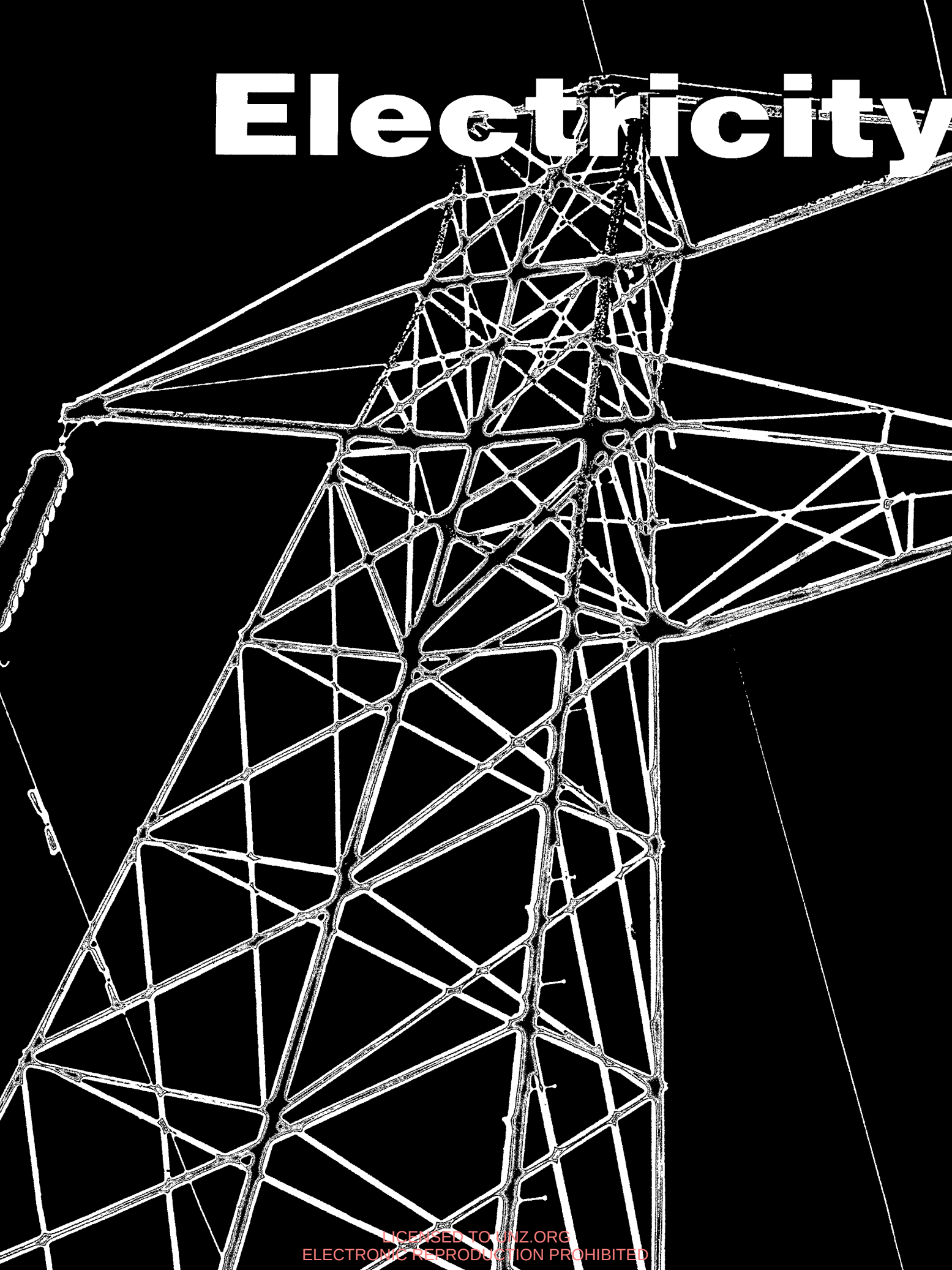
Electricity



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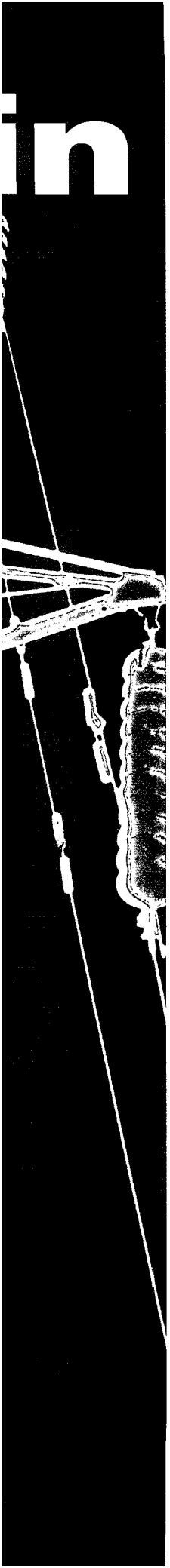

in California:

A political and economic crossroads

California's electricity crunch is not expected to ease for another couple of years. In the meantime, watch for Governor Gray Davis, the Legislature and other officeholders to do "the backwards shuffle" — reintroducing the energy industry to some level of regulation.

By Richard Nemec

A well-known national energy consulting firm, Cambridge Energy Research Associates, prefaced its latest tome on electricity in the United States by describing the industry as being "in the midst of a radical shift from regulatory oversight to competitive market forces." In California, that "shift" may already be in reverse, away from markets and back to government intervention in a troubled power industry still licking its wounds from last year's bloody summer of consumer and political discontent.

At a time when electricity was never more interwoven with the state's and nation's economic growth, a reverse industry restructuring likely will emerge in 2001, centered in California where economic theory and political reality again are expected to butt heads. California political leaders, regulators, consumer activists and environmental interests are lined up on one side of the issue; profitable international energy companies, free-market economists and business interests are on the opposite side.

"How the governor and the Legislature negotiate in 2001 to mitigate the negative effects of deregulation is going to be probably one of the most critical challenges facing the state,"

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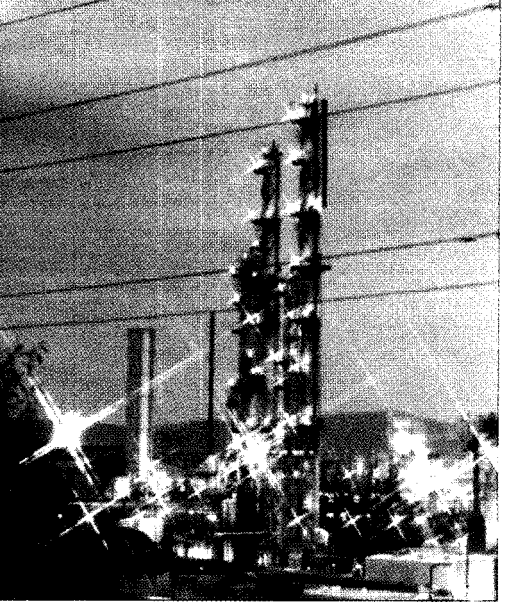


said Steven Erie, urban studies and planning director, University of California, San Diego, who noted at a Southern California economics conference that energy may become a consumer revolt issue similiar to what property taxes were in the late 1970s.

And in the middle, as usual, are the state's powerful investor-owned utilities, trying to do a political balancing act between the pro-market and pro-government-intervention groups. The bottom line is that the state's utility, industry and government officials find themselves at a crossroads that could shape California's economic development for years to come.

No one except the most unbending consumer activists thinks going backward is a viable option. Others want to stay put for a while, but most stakeholders want to move ahead on one of two roads — the current one leading to full competitive markets or a detour in which the government steps in until the path eventually rejoins a smoother, improved road to deregulation.

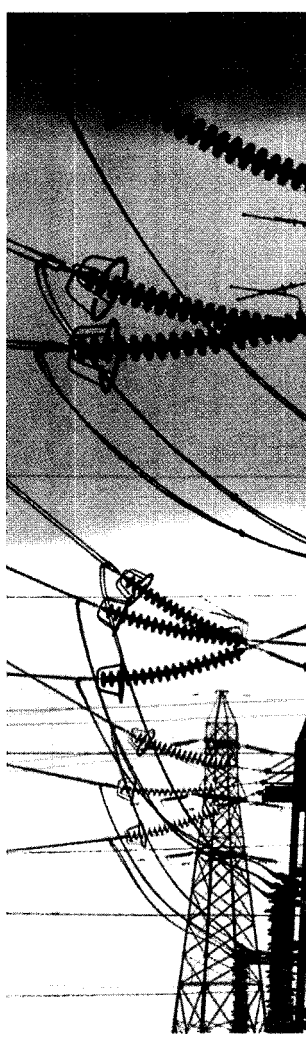
Even with a new federal administration and a Congress unlikely to deliver a national electricity deregulation bill, the push at the federal level and in a number of states will continue to be toward more market influence and less regulatory intervention. If California, as the bellwether for electricity changes and as the biggest single market nationally and internationally, turns back, there likely will be political and economic fallout. Governor Gray Davis vs. the White House would make for some new political drama.

The future of California's continued role as trendsetter in the steady march over the last decade to "reinvent" government with market-based solutions at all levels hinges

Deregulation under the dome:

It's all in the delivery

By Noel Brinkerhoff



This year, the number of bills addressing the electrical deregulation controversy will be outnumbered only by versions of the joke, "How many California legislators does it take to screw in a light bulb?" The most common punch line, by the time session ends in August, will probably be "all of them," or at least it will seem that way once lawmakers in both houses — and Governor Gray Davis — finish coming up with what's expected to be a barrage of consumer protection, power-plant construction and government regulatory proposals addressing the hottest public policy issue before the 2001 Legislature.

Perhaps the trickiest part of the deregulation mess will be addressing the $6-billion-and-counting debt that utility companies Pacific Gas & Electric and Southern California Edison have incurred as a result of higher-than-expected power costs during deregulation's interim rate freeze for consumers. The rate freeze is set to expire in 14 months (March 2002), but utility executives insist they can't wait that long to do something about their red ink. If the companies can't get permission from the California Public Utilities Commission to end the freeze, they will press the Legislature to do so.

But lawmakers aren't likely to be receptive to simply lifting the freeze, not unless they want to be burned in effigy by angry utility customers. Instead, lawmakers are expected to work on crafting a compromise that will have ratepayers footing part of the debt and the utilities' shareholders the rest.

Despite his reputation as one of the Legislature's most liberal members, Senate President pro Tempore John Burton (D-San Francisco) appears open to the idea of making consumers pony up some money to resolve the utilities' debt. When asked at a press conference about a solution to the debt problem, Burton said he may support "something in between" the companies eating the debt or ratepayers bear-

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on attempts to solve the state's electric ty conundrum. These attempts unleashed a cacophony of press releases and sound bites in post-election media overkill last fall, promptir g various government officials and energy executives to try to ou -leverage one another with the federal officials.

The future of California's continued role as trendsetter... attempts to solve the state's electricity conundrum.

In the complicated mix that comprises electric deregulation, it is difficult to find a true protagonist, although Governor Davis obviously would like to carve out that role for himself and his administration.

Ironically, in a political context, most of the key players now and in the past have been Democrats — not free-market Republicans. The disparate power brokers will need to come to some agreement early this year if a repeat of last summer's spiraling prices is to be avoided, along with the political fallout that would accompany it. The main antagonists are:

- The governor and several state agencies (California Public Utilities Commission; California Energy Commission; California Independent System Operator; California Power Exchange; and California Electricity Oversight Board).
- Private-sector power generators (AES Corporation; Duke Energy; Dynegy Corporation; NRG; Reliant Energy; Southern Company; and The Williams Company).

ing the full cost. The ever-compromise-oriented Davis may be open as well to such a plan.

However, consumer advocates are not likely to roll over for a plan that forces ratepayers to pay for part of the debt. With ratepayers having already helped pay off the utilities' earlier losses from failed infrastructure projects, such as nuclear power plants, consumer watchdogs have sworn to oppose any new proposals that once again target ratepayers' wallets. Says Douglas Heller, spokesman for The Foundation for Taxpayer and Consumer Rights: "Any effort by the Legislature to force the ratepayers to pay even one cent more to cover the greed and stupidity of the utility companies in this disaster of their own making will conclude our participation in the legislative process."

Can a debt-relief plan pass the Legislature without the approval of consumer groups? Sure. After all, the original deregulation law in 1996 passed without much consumer backing. For its part, Heller's group promises to sponsor a ballot initiative that would both undo the Legislature's debt compromise and end deregulation entirely. Consumer groups tried something similar in 1998 with Proposition 9, which was overwhelmingly defeated — though that was before ratepayers felt the pinch of electrical deregulation. Now, a public growing ever more nervous over its future utility bills could conceivably back such an initiative.

Consumer advocates also weren't pleased with Davis' proposal last month on deregulation, which failed to address the debt issue. The governor is expected to be the lead figure in the ongoing deregulation debate, but so far Davis has focused his strategy on getting the Federal Energy Regulatory Commission to order refunds from out-of-state energy suppliers. The one specific legislative proposal offered by Davis would change the membership of the California Independent System Operator and the California Power Exchange to eliminate what he called "inherent conflicts of interest" by board members of both bodies.

Last year, the Legislature adopted a bill to speed up the construction of new power plants in California, and there may be additional proposals this year to secure that goal. For instance, state Senator Steve Peace (D-El Cajon), chairman of the Senate Budget Committee and architect of the 1996 deregulation bill, has already proposed setting aside $2 billion of the projected $10 billion state surplus to establish a special reserve for energy initiatives. There also will be follow-up efforts to last year's price cap that lawmakers instituted to help customers in San Diego and south Orange County deal with skyrocketing electric bills. One package of consumer-protection bills already has been introduced by Republican Senator Bill Morrow of Oceanside.

Despite Morrow's efforts, Republicans aren't expected to play a major role in this year's deregulation discussions because of their dwindling numbers in both houses of the Legislature. According to one Republican, GOP legislators will be only too happy to let Democrats tackle deregulation — the newest "third rail" of California politics. "People who touch it get burned," he said.

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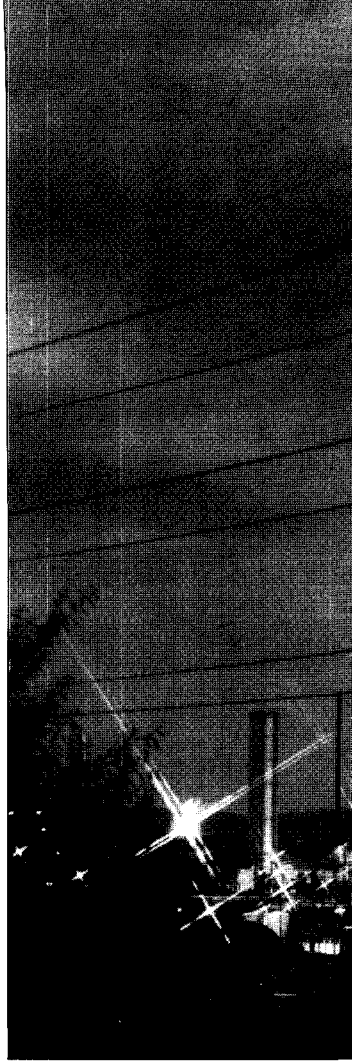
Ultimately, the Legislature is going to have to deliver what California needs.



• Three California private sector utilities (Pacific Gas and Electric; San Diego Gas and Electric; and Southern California Edison).

• The Federal Energy Regulatory Commission, or FERC, as it's known in shorthand.

• Utility consumer watchdog groups/environmental groups/organized labor (The Utility Reform Network; Utility Consumer Action Network; Foundation for Taxpayer and Consumer Rights; Natural Resources Defense Council; Sierra Club; statewide utility employee unions).

This is the same coalition of interests that emerged in 1996 as a Republican governor and Democrat-controlled state Legislature came together uneasily to push electricity deregulation in AB 1890, the anointed bill that flew through both houses without a dissenting vote in less than a week's time. Now the key questions for state policymakers are: Is the deregulation model salvageable? Should government re-inject itself? And, what is the role of investor-owned utilities?

The wide-ranging coalition, for which the consumer groups were never active supporters, has come apart, and some stakeholders are urging Davis to patch together a new one. However, with all the saber-rattling of last summer, that may be difficult. The governor's designated electricity SWAT team was busy throughout November, meeting with the stakeholders — a sure sign the issue is both politically and economically ripe.

Business takes cautious approach

"I don't see California's market getting liberalized at any point in the future," said one California-based economist with more than 30 years experience, who asked not to be named. "What eventually is going to happen is that the rest of the West is going to find its way to well-functioning wholesale markets, squeeze retail users in, and California is going to be off in its own strange little socialized world."

The largest business-sector deregulation proponent in 1996, the California Manufacturers and Technology Association (CMTA), has been almost invisible in the public debates of 2000, although CMTA representatives have monitored various state and federal regulatory forums. And the private sector generators, while publicly remaining bullish about their California properties, privately worry about the leanings of state legislative leaders, such as state Senator Steve Peace (D-El Cajon), and Davis appointees to the Public Utilities Commission — labor's Carl Wood and attorney Loretta Lynch — none of whom show much inclination to continue to push free-market solutions.

A CMTA official readily acknowledges that the association has purposely shied away from making statements in the news media for fear they would be misconstrued or misunderstood. Long term, the manufacturers think the market should be allowed to do its work. But for an interim period, CMTA supports various government interventions by both federal and state agencies to stabilize wholesale prices and curb market power.

"We're going along with this because we believe it is temporary," says CMTA energy policy director Dorothy Rothrock. "As soon as we don't need it anymore, we will back off.

"But if it is viewed as a permanent solution or something [state policymakers/legislators] are going to build on, then we oppose it [re-regulation]. We agree there should be some temporary governmental controls over the market. It is a real balancing act that makes it very difficult to debate in the press because of the subtleties around why you do one thing and not another.

"We could support FERC action in the wholesale market to control prices, but we don't think the market has failed and we need government controls long term. We do it because in the short term there is market power (that needs curbing), but the answer in the long term is more supply."

Governor's showdown

Some utility economics experts predicted there will be no winners in California's political fight with Washington, D.C., because ultimately it comes down to a macro-economics issue of supply and demand, and the FERC has little or nothing to do with managing supply and demand. As one observer said, the FERC "threw the ball in Governor Davis' court and he is still trying to solve it with Band-Aids."

Davis and his assortment of energy strategists went to

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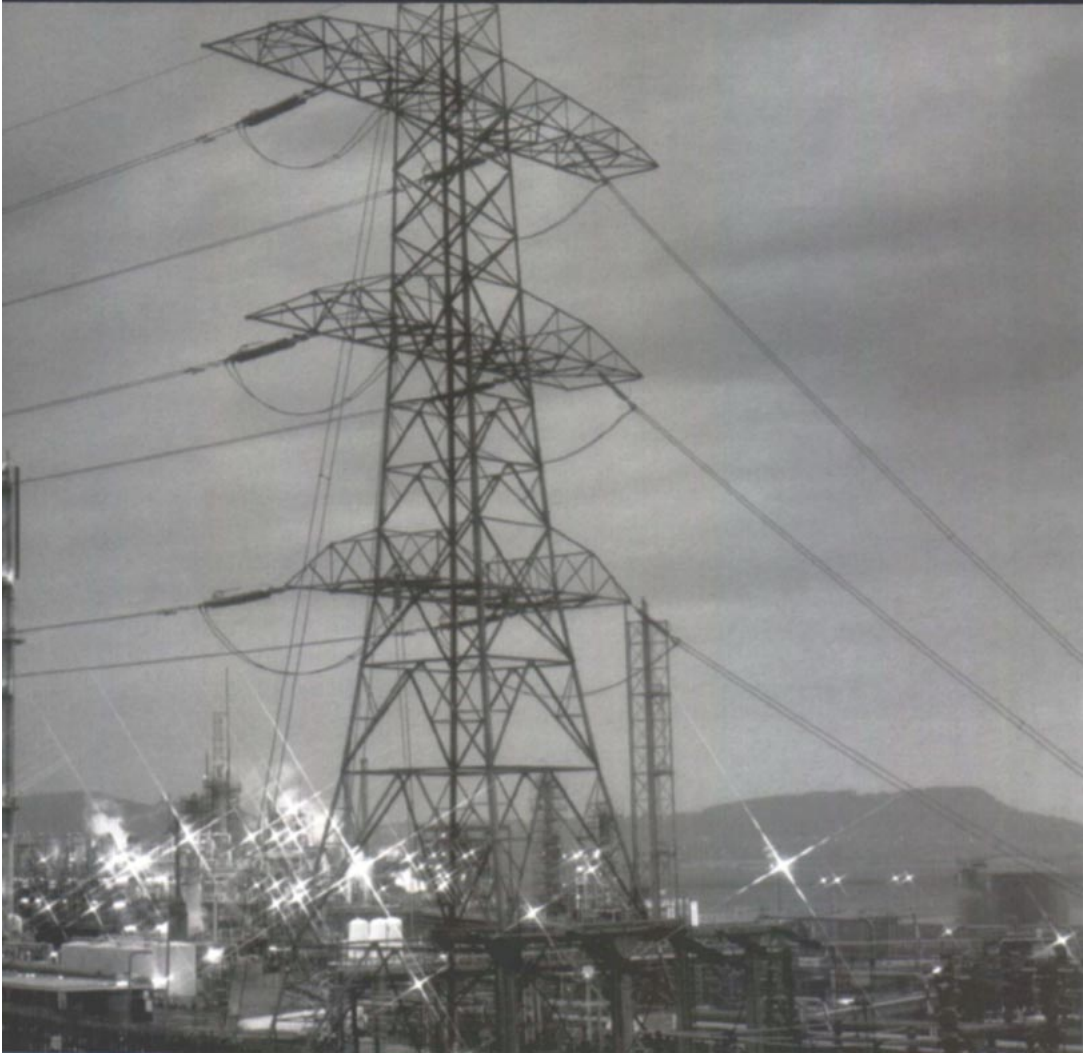

San Diego in mid-November for an electric-power version of the old OK Corral showdown in the Wild West, staring down across the table federal energy regulators who were drawing short of giving the governor what he wants to correct aberrations in the state's wholesale power market. The market, as Davis keeps reminding anyone who will listen, was put in place by a combination of federal and state political appointees and elected officials who are not part of the Davis team. In the process, California unwisely gave up some of its authority to regulate electricity, Davis administration officials say.

Ever since the crisis of skyrocketing electric bills last summer in San Diego, the home base of the governor's chief of staff and former congresswoman Lynn Schenk, California has been in a continuing squabble, at times war-like, with the federal government. On the eve of the Democratic National Convention in Los Angeles last August, Davis phoned President Clinton for help. Davis' plea caused the FERC to hurriedly move California to the front of the queue in federal electricity price investigations.

While not completely trashing the past decade's deregulation efforts in California and many other parts of the country, Davis and his advisers obviously have lost faith in New Democrat market-based solutions. They aren't willing to go back to old liberal Democratic "command-and-control" measures either, so the administration continues to straddle the issue, heading toward a hybrid approach of stepped-up government involvement during an interim period of four to five years.

The Legislature's role

After confronting FERC commissioners eye-to-eye at the San Diego hearing, Davis held a press conference, stacked with representatives from consumer and business groups. When asked where he stands regarding the state taking control of the electricity infrastructure as a remedy against continuing high prices, the governor waffled:

"My goal is to solve the problem in the future," he told reporters, gathered in the corner of a huge, empty convention hall in downtown San Diego. "I believe that there have been both 'marketeering' and 'gaming' [of the wholesale electricity market], which has aggravated the situation in San Diego. I also understand that what is broken here is the system that allows this to happen. The people who gave us deregulation promised prices would go down. Instead, prices went up."

Davis continued: "[FERC] Chairman [James] Hoecker could not assure me prices would go down [in 2001] with the FERC's proposed plan. I'm concerned that things will get worse [in 2001], and worse yet two and three years after that, without a plan." (The governor submitted his own deregulation plan to FERC on December 1 and corresponding regulatory and legislative actions are expected to follow his blueprint.)

Ultimately, the Legislature is going to have to deliver what California needs this year, with the governor's and the FERC's help. Federal officials are supposed to stabilize energy prices and return most of the excess profits that power generators collected last summer, while conceding to California some of the FERC's power over electricity generation and transmission. With or without this wish list being satisfied by FERC, California's Legislature will have to address several issues this year: accelerating the construction of new power production plants (short and longterm) in the state; overhauling the oversight and operations of the state-chartered independent electrical transmission grid operator (Cal-ISO) and state-chartered wholesale power market, or "power exchange" (Cal-PX); and revising AB 1890 to determine how and when the transition period for regulated utilities moving to a more

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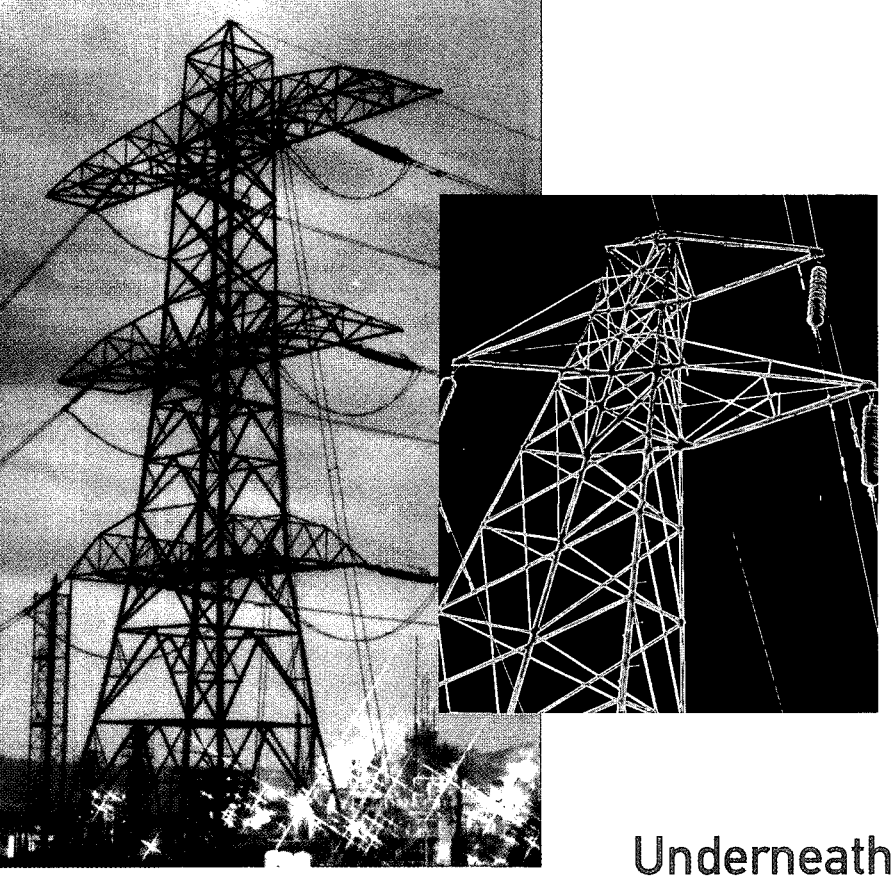

sider if the Federal Energy Regulatory Commission is unable to bring wholesale energy markets under control."

Out-of-control prices for essential energy such as electricity and natural gas have pushed Peace, Rosenfield and even Governor Davis into the mind-set that deregulation won't work. Under this thinking, government intervention is the only plausible remedy — at least for the next two summers, when California electricity and gas supplies are expected to continue to be stretched to the max. Those also are the two summers leading up to the governor's re-election campaign.

The governor stopped short of calling for a state takeover of electricity in his December 1 plan sent to federal authorities. Nevertheless, the set of policy options the governor used as an agenda last fall was weighted heavily to government-run proposals, prefaced with the non-judgmental verb "consider."

Underneath the regulatory jargon and the

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deregulated world is completed.

Senator Peace dropped the first shoe November 20, carefully making sure it was the size and width the governor can slip into if he so chooses. As part of a preview of the Democratic majority's state budget proposal for fiscal 2001-2002, which carries a projected one-time $10 billion surplus, Peace suggested $2 billion of the projected excess funds be put in a newly created reserve to bankroll state-run energy infrastructure purchases or developments. A week later, consumer advocate Harvey Rosenfield of The Foundation for Taxpayer and Consumer Rights called for the creation of a state power authority, among other government interventions he would sanction in a proposed ballot initiative to undo the state's electric deregulation it's a crusade Rosenfield led before, but lost, with a ballot measure in 1998 (Proposition 9).

A bumpy ride ahead

"(A) special reserve is necessary to preserve the state's options in responding to the difficulties encountered in the troubled electricity and natural gas markets," Peace said at a Capitol press conference in late November. "The use of public dollars to finance development, private-public partnerships, or to capitalize publicly owned utilities are all options which California policy-makers may have to consider if the Federal Energy Regulatory Commission is unable to bring wholesale energy markets under control."

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Underneath the regulatory jargon and the political posturing, a lot of the future direction of the state depends on faith and philosophy as much as engineering and economics. The latter can only take potential solutions so far. Ultimately, that means the politics of the situation remains acutely critical. Davis, for his part, repeatedly told free-market-leaning federal regulators that he refuses to be a "prisoner to ideology," which he equates with free-market advocates.

"Some of the most conservative, right-wing, free-market advocates in San Diego were the ones screaming the loudest last summer for state-mandated rate freezes and rebates," the governor notes.

CMTA, power generators and the FERC all believe new energy supplies are critical. They argue that, with excess supplies, the market will self-correct; without adequate supplies, the situation will worsen, the wholesale market will be stunted, and consumers will live in the artificial world of subsidized retail rates.

No matter what road California chooses, the ride promises to be bumpy.

Richard Nemec is a Los Angeles-based writer who covers energy for several national trade publications. His last article in California Journal *appeared in the March 2000 issue. Comments may be sent to* **edit@statenet.com.**

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Promises Made.

—— — Ruthann Schulte & Robert Darby - Environmental Stewardship Director and Aquatic Biologist, The Pacific Lumber Company ———

About a year and a half ago, The Pacific Lumber Company embarked on an unprecedented examination of our forestlands and the streams that run through them. We promised to "let science be our guide" and agreed to conduct comprehensive analysis of each watershed on our property. This process will assure that fish and wildlife are protected, water quality is improved and that a long-term sustainable supply of wood products is provided.

What We Learned.

Today, we are completing the first such analysis in the Freshwater Creek watershed. The analysis by a team of scientists – biologists, hydrologists, geologists and other experts – has told us a great deal about our streams in the Freshwater basin and the fish and wildlife that depend upon them:

- The watershed has a great deal of quality fish habitat with an abundant population of salmon and steelhead trout.

- Water temperatures are generally cool and there is plenty of large wood material in the stream system key ingredients for fish and other aquatic life.

- A couple of stretches of Freshwater Creek have experienced filling with sediment. This filling is a product of both natural causes and past management activities. This channel filling, recent winters with heavy rainfall and residential development in the floodplain have combined to produce ongoing flooding problems in these areas.

- Roads and railroads, especially those constructed in the past – in some cases decades ago – are the primary management-related cause of sediment getting into streams.

- Areas most prone to landslides have been identified and mapped so that the measures can be developed to reduce the risk of future landslides.

Promises Kept.

Now, working with state and federal fish and wildlife agencies, we're using this information to design scientifically-based "site-specific" protections to be used during timber harvesting in the Freshwater watershed.

In the meantime, all timber harvesting plans in the watershed contain the Habitat Conservation Plan's stringent interim protections – including no-cut buffers along streams, not harvesting on areas most prone to landslides and restrictions on wet weather activities.

Under our HCP we've already corrected many of the problems caused by past practices, in many cases decades old, by stormproofing our road system. To date, nearly 28 miles of roads have been treated in the basin, substantially reducing the amount of sediment entering streams.

At The Pacific Lumber Company we're proud to be keeping our promise to let science be our guide.

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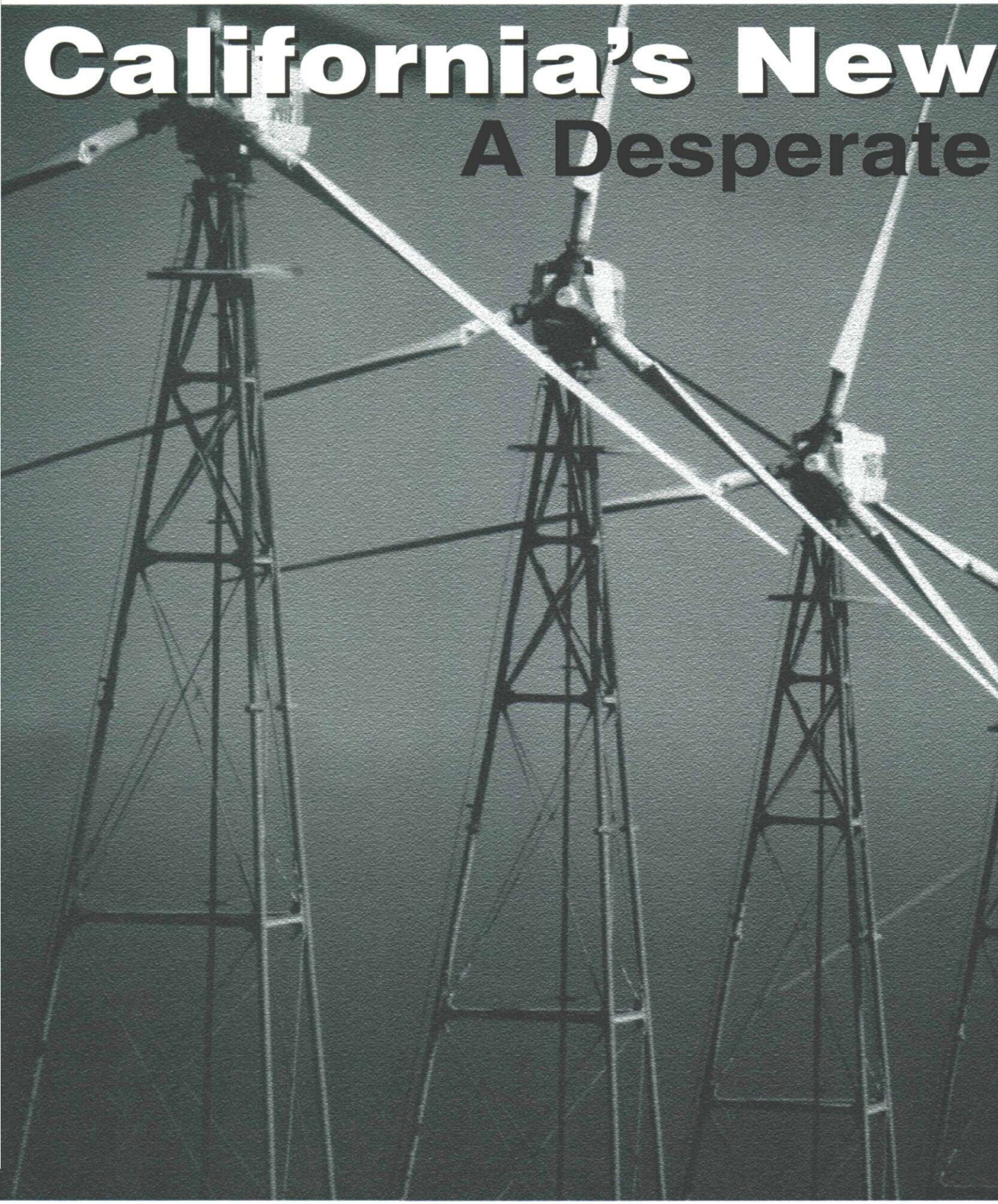
California's New
A Desperate



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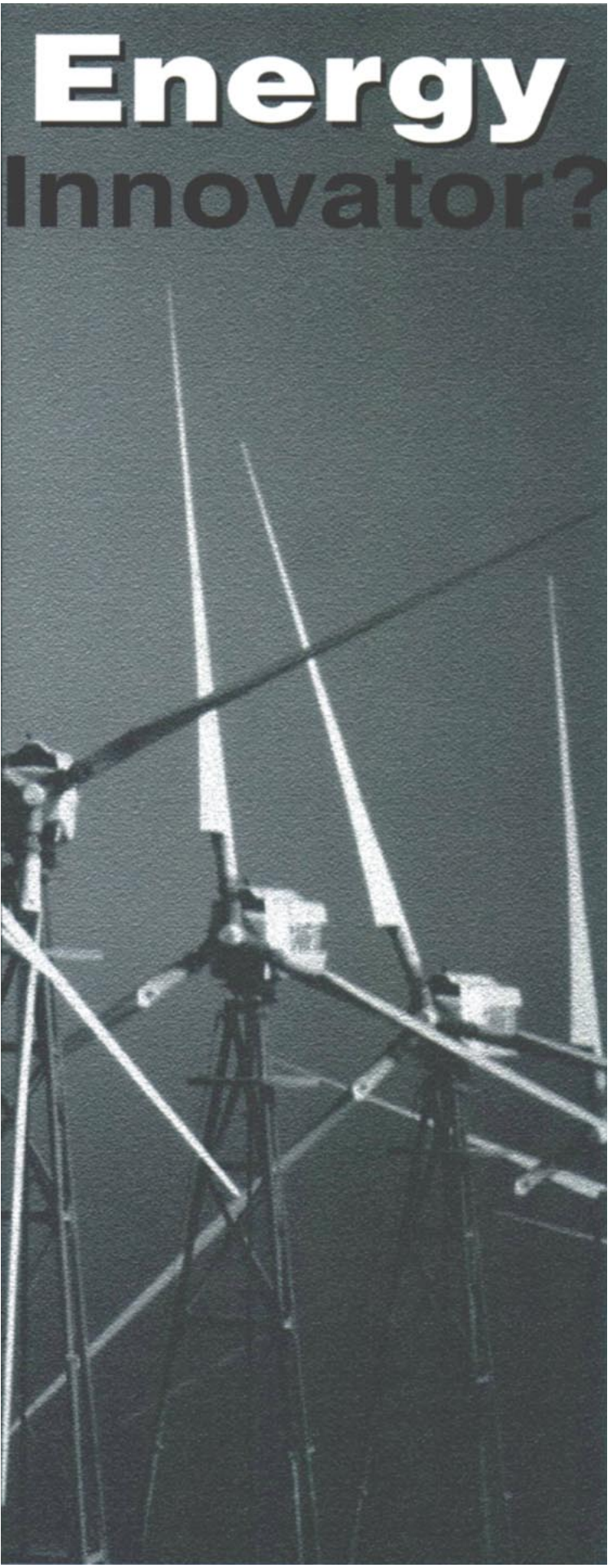

Energy Innovator? Legacy:

If it's true that in crisis comes opportunity, then there's no time like the present for California's leaders to forge a bold plan toward clean, alternative forms of energy. Wind, solar, fuel cell energy, anyone?

By Peter Asmus

Skyrocketing electricity bills in San Diego — the first city in the nation to experience the dynamics of an open, competitive power market — sparked an intense debate last summer about California's ability to provide reliable, affordable power in a state whose economy is increasingly dependent upon electricity. The fact that power bills jumped 300 percent in San Diego for many residential customers was held up as proof that electricity, which cannot be stored but must be consumed instantaneously once produced, should not be trusted to the whims of a free market.

The search for a scapegoat on which to pin the blame ultimately pitted federal regulators against the adminis-

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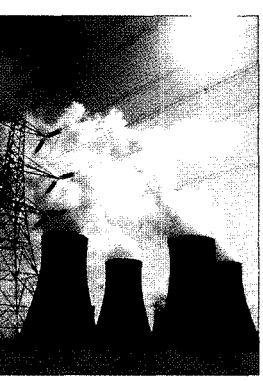
tration of Governor Gray Davis, with each pointing a finger at each other. Lost in all of the posturing and rhetoric is any clear policy direction at the state level that recalls the bold solutions enacted to address power supply problems two decades ago. Under Governor Jerry Brown, California promoted solar, wind, geothermal, biomass and small hydroelectric sources like no other state in the country. An entire domestic renewable energy industry was spawned in California. Wind power, perhaps California's most celebrated renewable energy source, is now the fastest growing power source in the world.

Davis has an opportunity to make history with an energy policy that acknowledges that the core problem in California is not deregulation per se, but the monolithic technologies that the current regulatory system still encourages: large, central station power plants fueled by natural gas.

The silver lining in the higher prices created by this energy crisis is that we now have the diverse tools and technologies necessary to propel a revolution in energy production that mimics, to a large extent, the evolution in scale and efficiency evident in telecommunications and computer industries. These new technologies — solar photovoltaics, fuel cells and wind turbines — are the equivalent to wireless cell phones and portable laptops that replaced traditional grid-connected phones and huge mainframe computers, respectively.

Dramatic changes

What was forgotten by many political leaders embracing market solutions to energy supply in 1996, when California's deregulation law was signed into law, is that prices go up and down in response to supply and demand. During the last decade, power surpluses resulted from the overbuilding of large centralized nuclear and coal power plants in the 1970s, which, in turn, depressed electricity prices. Prices are now escalating due to a supply shortage.



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Here's why the energy picture has changed so dramatically in the new millennium:

•***Unforeseen surges in power demand.*** For the first time in several decades, electricity consumption is going up, not down. In Silicon Valley, for example, electricity consumption has been growing at 5 percent annually over the past few years. Whereas electricity represented only 25 percent of our total energy needs 25 years ago, it will represent half of our energy consumption in just a couple of decades.

•***Virtually all new power plants burn natural gas.*** Because it is the cleanest of fossil fuels, natural gas has become the fuel of choice for generating electricity. Since 95 percent of all newly proposed power plants — 250,000 megawatts — run on natural gas, supplies have dwindled. Since many experts now expect today's high natural gas prices to last for at least several more years because of supply shortages, what happened in San Diego could soon be replicated all across the country.

•***The electricity shortage will generate increasing amounts of air pollution.*** As older coal, oil and natural gas plants run more often in supply shortage emergencies, pollution goes up. But Internet economy companies like Oracle and Cisco need the super-reliability that grid-connected, old-fashioned power plants like these cannot always supply. Many, therefore, are installing diesel generators on site, a trend that threatens to increase air pollution, betraying our belief that e-commerce was an environmentally friendly economic development.

The Davis administration has the opportunity to use this new energy crisis to propel California into the 21st century in terms of exciting new developments in power generation technologies. So far, the primary emphasis of the Davis administration — and virtually everyone in the public and private sectors — has been on siting additional natural gas plants. The California Energy Commission has already approved 4,000 megawatts; another 9,000 megawatts is in the pipeline; and an additional 15,000 megawatts in power plant applications loom on the horizon.

Problems with power plants

Commissioner Robert Laurie of the California Energy Commission is a vocal proponent of streamlining power plant permits, but he is worried that many of these proposed plants might never be built. "There are severe obstacles to the successful siting of all of these gas-fired power plants," warned Laurie. The state's poor air quality in regions of the state where new supplies are most needed is unfortunate. New natural gas power plants are relatively clean, but they still emit pollutants. In order to site these plants, developers need to reduce pollution elsewhere (typically in excess of what is generated at the new power plant) by buying what are called "offsets." In these transactions, the power plant developer typically pays other air pollution sources to reduce their emissions. These offsets, however, are rapidly becoming quite scarce and their costs have skyrocketed due to their short supply.

"On top of that, these plants use a lot of water for cooling," Laurie added, and there is growing opposition from other water users to diverting this scarce resource to power plants. Some gas-fired plants can employ dry cool-

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On top of the list of challenges is reliability, a major concern of growing numbers of Internet-related businesses that have been fueling California's economic boom.

ing — but that raises the price. The cost of electricity from gas plants has already more than doubled recently because of fuel price increases and a dry cooling system just adds another layer of cost.

Of course, the biggest obstacle to adding all these natural gas power plants to the state's power supply is availability of the fuel itself. "The natural gas may be in the ground, but it will take time and money to get it here to California," said Laurie. Since natural gas is also California's primary heating fuel, supplies are expected to be tight for some time.

Existing constraints on shipping additional natural gas supplies into California are matched by a lack of transmission access to import additional electricity from power plants burning coal or splitting atoms located in other states. "Unfortunately, the uncertainties associated with an industry that is partly regulated and partly competitive make it difficult to invest in needed infrastructure, particularly transmission," said Eric Hurst, a well-known power industry consultant formerly employed by the federal Department of Energy's Oak Ridge National Laboratory.

Lost opportunities

A study prepared by Bill Kucewicz, a former *Wall Street Journal* editorial writer nominated for several Pulitzer Prizes and founder of the Geoinvestor.com Web site, notes that California's deregulation plan "didn't create a mechanism for private, non-utility investment in power transmission." Given the fact that the state's utility owners of the transmission system have no incentive to invest in transmission, California's ability to import more than the current 25 percent of its power needs is yet another option that will not be on the table for the Davis administration to ponder. "The transmission system erected under the previous regime of vertical integration was never meant to handle the loads of an unbundled electricity sector, where power producers now supply bulk electricity to the highest bidders. Transmission there will require immense investment in coming years in order to maintain system-wide reliability," maintains Kucewicz. His figures show that investments in transmission have gradually declined over the last 20 years.

The Davis administration will likely do little in the way of boosting transmission capacity now or in the near future. But it could encourage innovation at the distribution level of utility service, the only part of the electricity business that still falls completely under state jurisdiction. And it is here where cutting edge "distributed generation" sources could be integrated into grids and address a variety of challenges posed by our current electricity infrastructure.

On top of the list of challenges is reliability, a major concern of growing numbers of Internet-related businesses that have been fueling California's economic boom. A power outage last June 13 is estimated to have cost $100 million in lost Silicon Valley business. Oracle claims the price of a power disruption would cost the firm "millions of dollars per hour"; Hewlett Packard estimates that just a 20-minute outage at a circuit fabrication plant would generate a $30 million debt due to loss of a day's production. "As the power grid becomes less reliable, the business case for innovative supply technologies suddenly becomes irresistible—including high-availability power supplies using non-polluting, environmentally friendly fuel-cells," comments Gil Friend, chief executive officer of Natural Logic, a Bay Area consulting firm specializing in sustainability issues. "More kilowatts isn't enough, if they're just 'plain vanilla' kilowatts; they have to be *reliable* kilowatts, to meet Silicon Valley's critical needs," Friend said.

Fired up on fuel cells

Big-name companies, including Enron, Pennsylvania Power & Light and Toshiba, all announced major investments in fuel cell companies after last summer's run-up in electricity prices. Some $17 billion of the $20 billion invested in alternative energy technologies over the past year have been earmarked for fuel cell companies, whose stocks have jumped by as much as 1,000 percent. Fuel cells rely upon an electrochemical process to convert chemical energy into electricity and hot water, and can continue to generate power in the event of a blackout. Fuel cells can run on a variety of fuels that include natural gas and hydrogen. The largest system in place today, a 1 megawatt system powering a post office in Anchorage, Alaska, is connected to the grid.

The Los Angeles Department of Water and Power has also installed a fuel cell system and the department's general manager, S. David Freeman, believes such clean distributed generation sources are key solutions to California's power supply conundrum. Still, he has harsh words for those who think that diesel generators —the most common form of distributed generation in operation today — should help fill in supply gaps. "Air quality is a fundamental right of state citizens — even more important than electrical reliability," said Freeman. "We can't afford to use

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The silver lining in th energy cris diverse tools an to propel a revolution

such a dirty technology in California — particularly when there are other alternatives that can deliver reliability with far less insult to the environment."

The fact that leading companies such as Cisco Systems Inc., a firm whose computer networks are entirely dependent upon ultra-reliable electricity, would install 12 megawatts of back-up diesel generators has folks like Freeman fuming about the lack of leadership on clean energy being exercised by California's corporate leaders. Diesel generators are 10 times more polluting than the vintage natural gas plants built during the Korean War that, in turn, are 10 times more polluting than the large gas plants currently being built in the state.

Despite the obvious appeal of fuel cells — they can generate clean, base-load electricity from a variety of fuels including hydrogen — and predictions that they could supply as much as 20 percent of the nation's commercial and industrial power needs within a decade, solar photovoltaic technologies currently dominate clean energy distributed generation purchases by businesses and other consumers.

Harnessing the sun

Dan Shugar, executive vice president for PowerLight Corporation, a solar photovoltaics manufacturer, sees last summer's electricity price spikes in California as a prime business opportunity. "We could install 1 megawatt of solar power on every Wal-Mart and large commercial building in the state," said Shugar. The prices of photovoltaics are still high — in the broad range of 10 to 35 cents per kilowatt — but those same, and much higher, prices were being paid for dirty coal power this past summer during supply emergencies. Solar photovoltaic panels can be installed in a matter of days — far swifter than the three years it takes to site and build most large fossil fuel facilities. "Germany and Japan install roughly 70 megawatts of photovoltaic per year. We could do that right now and immediately start generating electricity," said Shugar.

Though his firm installed a 100-kilowatt system atop the Anaheim Convention Center last August, it is just a tiny drop in the power supply bucket. Shugar maintains that California could generate 16,000 megawatts of electricity from the sun if every commercial and industrial roof were covered with photovoltaic tiles. That amount would represents a third of the state's entire demand for electricity.

The National Renewable Energy Laboratory underscored the benefit of installing solar photovoltaic in our nation's urban centers in a recent report. Seven major outages — including one impacting San Francisco last June — were analyzed from the perspective of the quality of the solar resource during the exact times of the power losses. Not surprisingly, in all but one of the outages, conditions for optimal solar electricity generation were above 90 percent. This makes inherent sense. It is typically sunny days that lead to heat waves that stress our electricity delivery infrastructure. Why not rely on the same sun that helped create the crisis to solve the power supply problem? Interestingly, solar conditions were close to perfect for generating electricity from the sun on June 14, 2000, the day 100,000 customers in San Francisco lost power.

One promising statewide effort on solar photovoltaic involves members of the Davis and Clinton administration, but was spearheaded by local governments. Local officials may turn out to be the key players in determining whether California regains the lead in energy policy and technology innovation. A study by U.S. Department of Energy showed that, if covered with solar photovoltaic panels, the roofs of California's city and county buildings could generate 200 megawatts of clean electricity. School

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igher prices created by this s that we now have the echnologies necessary energy production.

roofs covered with solar photovoltaics could add another 1,500 megawatts to the state's peak power supply. Along with helping to fill in the power supply gaps when we most need it, these micro-power power plants offer additional benefits to local communities.

Local government in the dark?

Ironically enough, proposals for distributed power sources have encountered extended delays, often due to local governments. Many local government officials are in the dark when it comes to these micro-power plants because the impacts and benefits have never been clearly defined for them. A case in point is fuel cells. In the early 1980s, when fuel cells first arrived on the scene, "utilities were installing them and things went pretty smooth since they knew the codes and regulations that applied at the customer site," said Ron Ishii, a vice president of Alternative Energy Systems Consulting of Carlsbad and a former employee of San Diego Gas & Electric. "Today, the typical scenario is third parties installing fuel cells at customer sites," he added, and local governments approvals have not been easy.

"Local officials need to understand the technology better. They need to be educated on what fuel cells are and what electricity supplies we are currently buying that can be displaced by a fuel cell. To most local building departments, a fuel cell is just a big box, and they are not sure what to do when it comes to issuing a permit for construction or operation," he said. Like solar photovoltaic panels, fuel cells do not release any harmful air pollutants because nothing is burned. Nevertheless, the high-temperature steam, which in some cases can reach 1,000 degrees C, and its intense pressure "can get local building inspectors excited," said Ishii, even though the potential for problems are considered minimal.

"Many of the local codes don't address these technologies at all," said Stephen Greenberg, a vice president of RealEnergy Inc., which has offices in Sacramento and Los Angeles. "And you can make an argument that says they are an appliance; or you can make an argument that, no, there are more serious implications on health and safety, consumer protection. And there really isn't guidance today."

Despite these obstacles, RealEnergy is moving ahead with a number of innovative projects involving solar photovoltaics. The latest involves mounting an acre of solar panels on the roofs of City Center, which is owned by Arden Realty, a Los Angeles-based office landlord. While tenants of such buildings were never too concerned about power costs in the past, RealEnergy is working with major owners of commercial property taking the long-term view on electricity reliability and environmental issues, such as global climate change. "Our goals are, first, to install equipment that increases the reliability of power systems to our tenants," said Arden Realty President Victor J. Coleman. "Our second goal is to reduce the environmental impacts of dirty electrical generation." The more-than-300 kilowatts of solar photovoltaics on the City Center is reportedly the largest private installation of the technology in the Western Hemisphere.

Looking for leadership

Though solar photovoltaic installations involve high up-front expenditures, RealEnergy chief executive officer Kevin Best says he believes the costs appear reasonable when spread out over the 20-year life of the equipment. After installation, "there's no fuel and no maintenance," Best pointed out. "That's a price cap in my book," he added, referring to controversy in California regulatory policy that has focused on imposing a ceiling on what traditional power plant operators could charge for their wholesale electricity during times of peak demand and low supply.

The legislation creating California's competitive electricity market became law during the watch of former Governor Pete Wilson. Yet it is Davis whose political career may be judged on how he solves the dilemma of securing additional power supplies at a time when fossil fuel prices are expected to remain high — regardless of what federal regulators say and do.

The California Energy Commission's "buy-down" funds, included in the state's deregulation law, can cover almost half of a new solar photovoltaic installation and have helped increase demand for grid-connected solar systems by a factor of ten. That increase in solar power shows that state energy policy can foster solutions — regardless of what happens at federal or local government levels. Without more dramatic measures from Davis, however, California's much vaunted leadership on energy policy will be questioned, and the state's economy and environment will be severely compromised.

Peter Asmus is author of Reaping The Wind, *published by Island Press in November 2000. Comments may be sent to* **edit@statenet.com.**

Coming next month...

The new economy continues to make inroads in the public policy arena. Also, why California isn't a player in national talks about how to solve online retailers' taxing dilemma.

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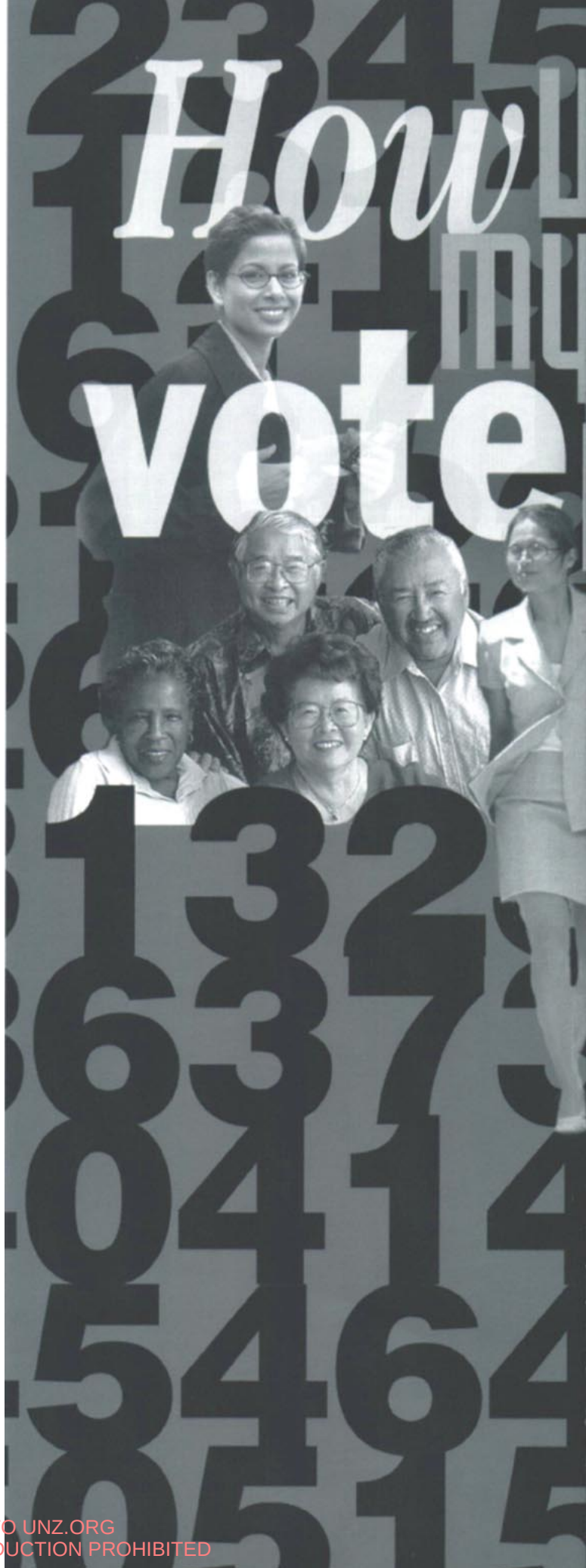
The Florida backlash



It couldn't happen here, say most election officials, but Florida's bungled balloting has heightened political interest in changing the way that Californians cast their votes. Lawmakers are lining up with bills to update California's aging election systems.

By Claudia Buck

For years, voters in San Francisco used punch cards to mark their ballots, poking a stylus through a tiny rectangle of cardboard — the infamous chad. On Election Night, before those ballots could be fed into the counting machines, dozens of volunteers sat at long tables in the basement of San Francisco's City Hall, scraping hanging bits of chad off the backs of ballots.

"It was like a sewing bee and it went on until the wee hours of the morning every election," said Christiane Hayashi, communications manager for the San Francisco Department of Elections. "We still find chads in the carpet."

San Francisco was always one of the last counties statewide to report its vote totals and those pesky chads were a big part of the problem.

No more. Eager to upgrade, San Francisco recently spent roughly $3 million for an optical-scanning voting system where voters mark ballots with an ordinary pencil.

"It's way less ambiguous," said Hayashi."You can take

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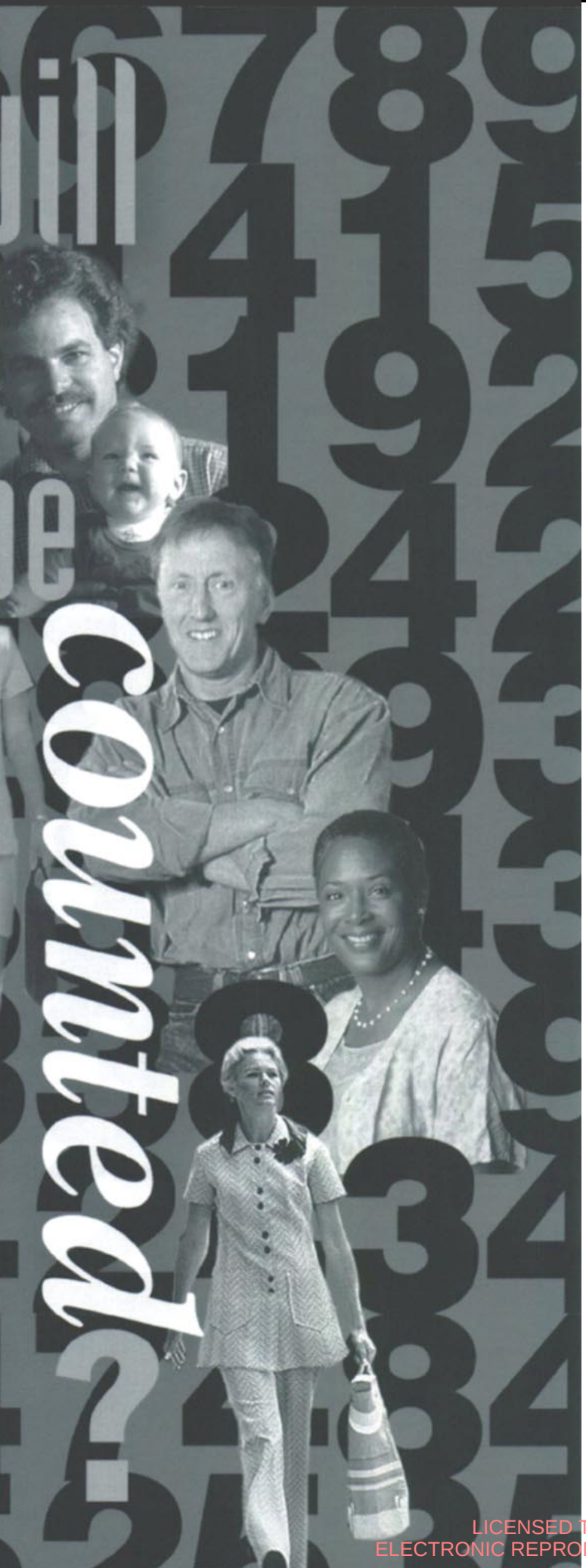

a No. 2 pencil and mark your ballot and another human being can look at that vote and ascertain exactly what the voter intended."

San Francisco is just one of a number of California counties that have either made — or are contemplating – a leap to new voting technology. Riverside County drew delegations from Japan and Mexico this November when it rolled out its $14 million, first-in-the-nation, countywide electronic voting system, where voters cast ballots by tapping on a touch-screen computer.

But such investments are rare for county election officials, who often are last in line when it comes to getting access to county coffers. Until this election, that is.

After Florida's botched balloting process dragged the U.S. presidential race out of the polling place and into the courthouse, election officials everywhere suddenly found themselves in an unaccustomed spotlight. And ordinary folks who didn't know a pregnant chad from its dimpled cousin, now do. All of which has helped propel election reform to the top row of lawmakers' agendas.

Turning elections upside down

"Florida's impact has turned the election environment on its ear, no question," said Secretary of State Bill Jones, who recently unveiled his own 10-point list of election reform proposals.

California lawmakers, meanwhile, are jumping on the ballot bandwagon, including a number who introduced election reform bills on December 4, the new Legislature's first day in session.

"One year it's guns; one year it's utility deregulation. This year, it'll be chads," said Darren Chesin, Senate Elections and Reapportionment Committee consultant. Normally, Chesin said, the elections committee sees about 100 bills during a two-year session; this time around, he's expecting nearly that many this year alone. "We'll have an avalanche, relative to what we usually get," he said. "Everyone wants to be able to say to their constituents, 'I'm doing my part to make sure we don't have a Florida here in California.'"

Newly minted state Senator Dick Ackerman (R-Fullerton) introduced SB3, which would require voters to show some form of I.D. at the polls, a proposal he tried to pass at least twice before while in the Assembly. Assemblyman Robert Pacheco (R-Walnut) introduced AB28, a measure that would provide $300 million to counties to install new voting technologies, and another $100,000 for a study on ways counties can streamline their balloting systems.

Given the newfound attention on elections, some lawmakers found quite a different reception this year when they trotted out their election bills. When Assembly Majority Leader Kevin Shelley (D-San Francisco) previewed his online voting bill at a press conference last year, the lawmaker said only a single reporter from his hometown newspaper turned up. This year, his press conference was packed with TV cameras and reporters. His revived bill, AB 55, would encourage counties to move to electronic touch-screen voting, where votes could be transmitted directly to

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county election offices via "hacker-proof" secured lines.

"Without Florida, there wouldn't be the openness to this politically," said Shelley, who believes California could move to completely paper-free voting within the next two to four years. "It's a tectonic plate change taking place and we'll never go back."

Meanwhile Assembly Speaker Robert Hertzberg (D-Los Angeles) and Secretary of State Jones are working out details of their similar proposals to provide state funding to counties to upgrade voting systems. Hertzberg has proposed giving counties $300 million in matching funds, while Jones calls for a $230 million "Democracy Fund" to aid counties in purchasing new voting technology.

Jones isn't advocating that California abandon paper ballots altogether, but the Florida situation is a stark reminder that bits of ballot chad can wreak havoc. "We're trying to rebuild some of the credibility that's been lost by what's happened in Florida," said Jones, who predicts there will be widespread bipartisan support for updating California's voting technology.

"We need to do some faith-building with the public on elections."

Nevertheless, Jones and other California election officials emphasize that Florida's craziness could never occur

A dying breed?

Wanted: Living, breathing poll workers

By Claudia Buck

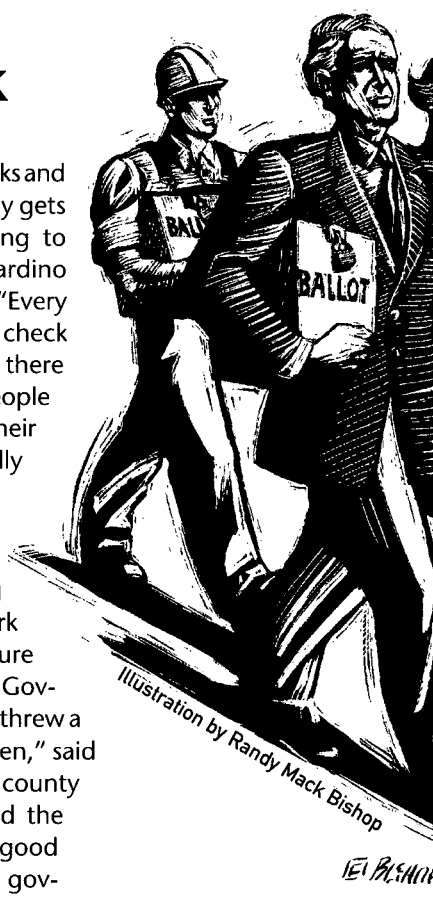

Illustration by Randy Mack Bishop

Frustrated county election officials, forever struggling to find enough workers to staff precincts on Election Day, have long believed that poll workers are a dying breed. In some cases, it's literally true.

In one Bay Area county this year, a precinct worker collapsed and died during training class. In San Francisco, a poll worker died of apparent heart failure on Election Day. And in Los Angeles County, one longtime precinct manager kept right on working, even after her husband died just a few feet from the polling booth. While awaiting the coroner's arrival, he was covered with a blanket as voters filed past to cast their ballots.

Stories like these make the rounds of county election officials, who know only too well the difficulty of hiring hundreds of low-paid but sharp-minded employees for just one day's work.

For years, poll workers typically were housewives or retirees who volunteered to spend a long day in a cold school gym or an unheated garage, doing their civic duty for a nominal paycheck. But with voter turnout bouncing up and down over much of the past decade and so many women now in the work force, fewer step forward to do the work of democracy.

"It's a long, 12-hour day and it's not scintillating work," admitted Alfie Charles, spokesman for the Secretary of State's Office.

For county election workers statewide, rounding up enough workers to staff hundreds of precincts on Election Day is often a major headache.

"It's a huge problem," said Brad Clark, president of the California Association of Clerks and Election Officials. And it only gets worse every year, according to Ingrid Gonzales, San Bernardino County registrar of voters. "Every day, we'd get to work and check our e-mail messages and there would be 130 vacancies. People get sick or they change their minds and decide they really don't want to do it."

One development that's helped is legislation passed in 1996 allowing high school seniors to work on Election Day. The measure was vetoed twice by former Governor Pete Wilson until "we threw a fit and said this has to happen," said Clark, speaking of his fellow county elections officials. "We told the governor's office that this is good government and it's good government policy." On the measure's third try, Wilson signed the bill.

To be hired as poll workers, students must have a 2.5 GPA and permission from their parents and school principal.

"Kids develop a new-found respect for the political process after working an election," said Justin Trinh-Halperin, executive director of Kids Voting California, a nonprofit

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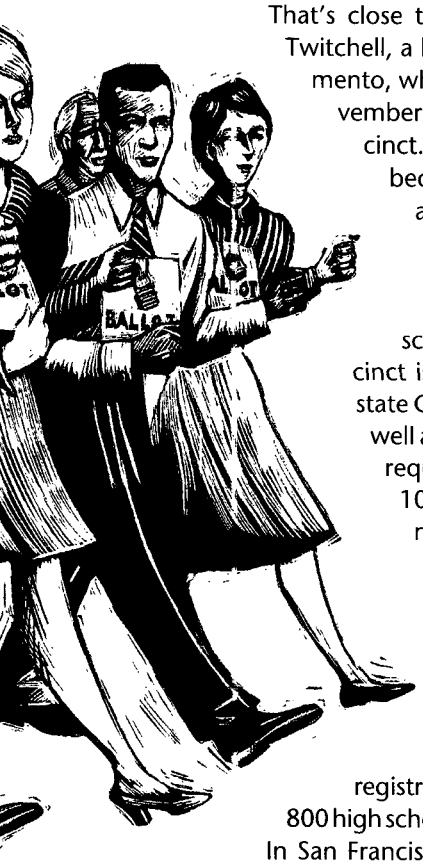
here because state guidelines are already in place to dictate how voting and recounts are to be conducted.

Although many have questioned whether California's voting systems could suffer the same fate as Florida in a close election, Jones isn't among them. "There's no reason for people to worry. Our voting systems work, and we have guidelines to protect California from the kind of chaos we're seeing in Florida."

Nevertheless, Jones believes there's still room for improvement, and he is pushing a number of election reform proposals this session that include:

- Notifying voters when their absentee ballots are tossed out for technical reasons.
- Requiring voters to show I.D. at the polls.
- Preventing candidates and campaigns from collecting and sending in completed absentee ballots; instead, voters must mail in their own absentee ballots.
- Improving the "motor-voter" registration process, following complaints this year by some who registered to vote at the Department of Motor Vehicles but whose names didn't appear on their county precinct rolls.
- Putting teeth into California's election guidelines by codifying them as state regulations.
- Spending $10 million to launch a statewide campaign to recruit high school students to work the polls.

organization that conducts mock elections and provides classroom curriculum on voting to schools. "I have yet to meet a student who had worked an election as a high school poll worker who wasn't counting the days until their 18th birthday."



That's close to the reaction of Caroline Twitchell, a high school senior in Sacramento, who worked 15 hours on November 7 at her neighborhood precinct. "It made me eager to vote because I really wanted to have a say in an election that was this close," said the 17-year-old, who attends an all-girls' Catholic high school. Twitchell, whose precinct is less than a mile from the state Capitol, earned about $95 as well as credit toward her school's requirement that seniors spend 10 hours in political community service.

Down in San Bernardino County, a fourth of Election Day precinct workers were high school seniors. "If that law hadn't passed, we would have had empty polling sites," said registrar Gonzales, who hired some 800 high school students from 25 schools. In San Francisco, "They saved our lives," said Department of Elections communications manager Christine Hayashi, who pulled in 900 Bay Area high school students to work the polls. She and other election officials say their student workers generally are alert, enthusiastic and have the energy to work a long day.

And there's an additional benefit to having younger workers paired with older veterans, a benefit Clark calls "cross-generational communication." On Election Day this year, Clark said he had a 80-year-old precinct worker in Piedmont who was skeptical of having a 17-year-old teenager working alongside him. The next day, however, the gentleman called Clark with congratulations on hiring such a smart, capable co-worker who was nothing at all like the unruly, undisciplined teenager the octagenarian had expected.

Over in West Oakland, Clark says one public high school student actually "saved the day for her precinct." On Election Day, she was the only one who showed up to work. Based on the training she'd gone through, the student set up the polling place as she'd been instructed, then got on her cell phone to call a friend who came down and worked the polls with her. In addition to her paycheck, the teenager earned a special commendation from Alameda County election officials.

Aside from the tedium, salary is another issue hampering recruitment. In larger counties, poll workers typically earn anywhere from $65 to $80 for what is at minimum a 12-hour day; inspectors, who act as the precinct manager, earn $100 and up.

In Riverside County, finding poll workers wasn't a problem this year, and Registrar Mischelle Townsend thinks it might have been due to the publicity over the county's new electronic voting system. The county ran a campaign urging residents to "be a part of making history in Riverside County" and issued pleas to all county employees, asking them to take a day of vacation to work at the polls. Of its 3,000 poll workers, about 200 were high school students.

But not all counties are as fortunate as Riverside. When it comes to finding poll workers, said Gonzales, "every election official has horror stories."

But they also have humorous tales. In Riverside County, election officials held a month of training classes for poll workers before unveiling their countywide touch-screen voting system. Nevertheless, Assistant Registrar John Wilbur said that within the first couple of hours, election officials began getting calls from a number of worried poll workers reporting that warning signs were flashing across computer screens in the ballot booths, announcing that the computer's batteries would run out in 10 minutes. Upon checking, Wilbur said, it turned out to be a no-brainer: poll workers had forgotten to plug the voting machines into the wall.

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A Riverside County resident casts her ballot on a touch-screen voting machine.

paign to educate voters about registration, techniques and absentee ballot deadlines.

Jones also wants to revive legislation that would make the Secretary of State's position a nonpartisan post, as is the superintendent of public instruction. It's a proposal Jones pushed unsuccessfully while still in the Assembly and again in 1998 but, given the partisan flavor that permeated actions by Florida's election officials, Jones feels the timing may be right. "If you have an 'R' or a 'D" after your name, you're subjecting the office to criticism."

Changing the way we vote

But the biggest push this year will be for new voting technology. There's no doubt that California's voting systems, with a few exceptions, are old. Many of the punch card systems date back to 1964.

"You almost have to bring somebody out of retirement to work on these machines," said Dwight Beattie, Sacramento County's chief deputy registrar of voters.

Californians cast their ballots primarily on three types of voting systems: punch cards, optical scanners (where voters fill in bubbles, arrows or boxes with a pencil or special pen) and electronic touch-screen computers.

According to the Secretary of State's Office, in last year's November election, 7.5 million (71 percent) voters cast ballots using punch cards, 2.6 million (25 percent) voted with optical scanning ballots and 455,000 (4 percent) used electronic voting, mostly in Riverside County.

Touch-screen computers have gained particular attention in the wake of Florida's overpunched, undercounted ballots. The virtues of electronic voting, say supporters, are that voters cannot over-vote their ballot and there's no ambiguity about what was punched or not punched.

But not every county is ready to embrace electronic voting. San Bernardino County Registrar Ingrid Gonzales said it raises questions of security. She noted the cost and risk in having moving vans deliver $4,000 voting machines to a precinct in a person's garage or a school auditorium where security may be lacking and finding adequate warehouse space to store those machines after the election. And the fact that absentee and provisional ballots must still be done on paper doesn't make computer voting a cure-all.

Mendocino County Registrar Marsha Wharff said she has concerns about whether a machine can be counted on to accurately record votes when there's no paper ballot for reference. "How do you know that what the voter marks on the screen is recorded inside the machine? You can always go back to hand-counting with paper ballots, but you can't do that with a touch-screen system."

She and others believe that for computerized voting to fully take hold in California some sort of paper trail is essential.

Kim Alexander, director of the California Voter Foundation, suggests that voters using touch-screen machines receive a paper receipt, much like an ATM receipt, showing how they voted. "The uneasiness that many people have with computerized voting could be avoided," Alexander says, by allowing voters to view a paper copy of their marked ballot.

But Alexander cautioned that voters should not be allowed to take that paper copy away from the polls. "To do so, I fear, would erode the right to cast a secret ballot and could cause a proliferation of vote selling, vote swapping and political coercion," she said.

Riverside gives thumbs up

In Riverside County, elections Registrar Mischelle Townsend said she was motivated to move Riverside County to electronic voting for its faster vote tallying, cost savings and the security provided by paperless ballots stored in the machine's memory bank and on an electronic read-only cartridge. Under its former system, where Riverside voters marked paper ballots by pen or pencil, Townsend said it wasn't unusual to dump 14 pallets of unused ballots after an election. "It was a huge waste of taxpayer money," said Townsend, who estimates the county is saving $600,000 a year in paper costs alone. As for storage concerns, she said the new machines are stackable like luggage and occupy the same warehouse space as the old optical scanning system materials.

For a paper trail, she said, "We can print all the ballot images off the machines," which is what they did in a local school board runoff following the November election. Townsend also said another common misperception is that the elderly are mistrustful of computer technology and will be afraid to vote. During a 1999 recall election in the city of San Ycinto, electronic voting was used on a trial basis. Even elderly and frail voters took it in stride. "Several seniors said they go play video poker at the Indian casinos and this is no different," Townsend recalled.

After electronic voting went off without a hitch in November, Townsend said, "We got e-mails from people in their 70s saying, 'Why didn't we do this sooner?' The superlatives warmed your heart."

Regardless of how California ends up changing its voting systems, Alexander believes it won't an easy process. "We'll see if lawmakers have the patience and stamina

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to work through all the intricate issues that arise when you talk about changing voting systems. It's a real thorny public policy arena."

Alexander and others found out just how thorny after serving on the Secretary of State's Internet Voting Task Force in 1999. The initial enthusiasm of some task force members over the prospect of allowing Californians to conveniently vote from home or at work via the Internet quickly evaporated as they grappled with difficult realities: how to ensure that voters are who they say they are, how to guarantee voters' privacy from a home or office hookup, and how to protect the system from hackers.

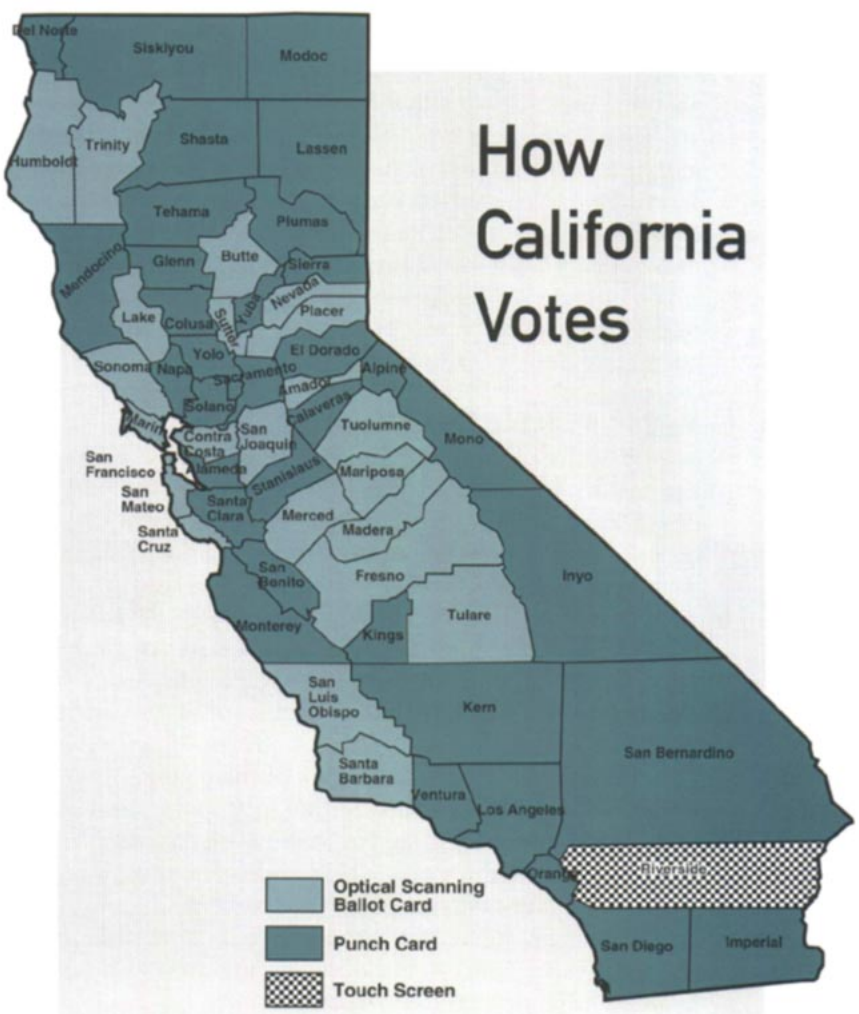
"Voting is a delicate system. It's everything from providing a private place to cast a ballot to ensuring how those votes are transmitted to determining what role poll workers play. A lot of different characteristics need to be protected," said Alexander.

Faced with a number of nagging concerns, the state's task force recommended in its report last January that Internet voting be rolled out slowly in stages, beginning with "shadow voting" that took place during the November 2000 election in four counties – Sacramento, Contra Costa, Santa Clara and San Diego — where voters could voluntarily vote a second time on a non-binding Internet voting machine set up in government offices. About 1,000 voters tried the new system, their votes transmitted via a secure Internet line to the Secretary of State's office. A report on the trial run is expected this month, according to Charles, California's assistant secretary of e-government. He predicted that California could see Internet voting in use on a limited basis by the 2002 primary.

Meanwhile, at the federal level, congressional Democrats and Republicans also are looking at upgrading voting technology. Among others, Democratic Senator Charles Schumer of New York and Republican Arlen Specter of Pennsylvania are calling for a federal evaluation of various voting systems.

California Congresswoman Nancy Pelosi (D-San Francisco) said she welcomes computerized voting, as long as it doesn't rely solely on personal computers. "We don't want to exacerbate the 'Digital Divide' by having voting only available to those with computers in their homes," Pelosi said. "We have to explore many different options. Some have suggested making it as easy as going to the ATM in a supermarket, where it's accessible to everyone but still has some level of privacy."

Pelosi said it is highly unlikely that the federal government would ever mandate a single, uniform type of balloting because voting is a responsibility delegated to states and local governments.



Source: Secretary of State's Office

The human touch to vote counting

Perhaps the most startling revelation coming out of the recent electoral fiasco is that elections still are a very human endeavor. "Elections are dependent on people and people make mistakes," said Clark. But he and others believe enough safeguards are built into California's system to prevent the kind of balloting mixups seen in Florida.

Nevertheless, all along the way, subjective decisions are made about whether a vote is counted. That's especially true with absentee ballots, which are mailed or dropped off at election offices or precincts, and provisional ballots, which are cast by voters who show up at the polls but aren't on the precinct list. Both are counted by hand after the polls close.

When absentee ballots are checked, for instance, the voter's signature on the outside envelope must be verified with his/her signature filed with their official voter registration card. The rule of thumb is that the signatures must match in at least three points: The Ys swoop the same way, the Cs have the same curve, the Ds lean the same direction, for example.

Deborah Caplan, a Sacramento attorney specializing in election law, was a Democratic Party observer in Sacramento County as provisional and absentee ballots signatures were verified in the neck-and-neck 5th Senate District race between Democrat Michael Machado

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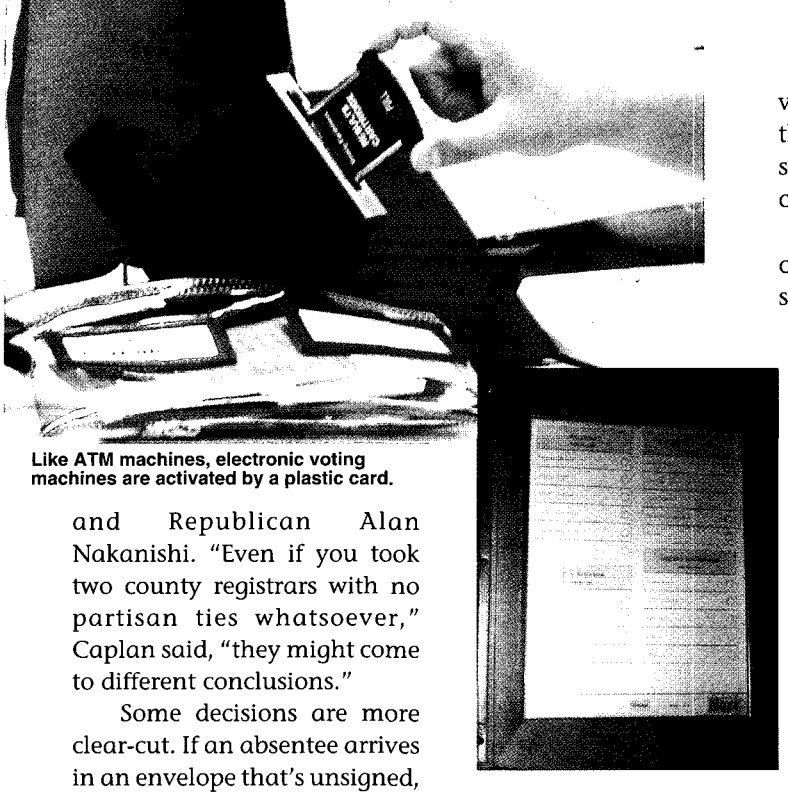

Like ATM machines, electronic voting machines are activated by a plastic card.

and Republican Alan Nakanishi. "Even if you took two county registrars with no partisan ties whatsoever," Caplan said, "they might come to different conclusions."

Some decisions are more clear-cut. If an absentee arrives in an envelope that's unsigned, it's not counted. If a person signs their name on the ballot itself, it's not counted. And if it arrives after Election Day, even with a postmark, it's not counted.

That's one reason why the Secretary of State's Office is recommending that county election officials be required to inform absentee voters when their ballots are rejected. "We need to keep faith with the public," said Jones, "that if we choose not to count their vote, here's why."

Otherwise, without being notified, voters might continue making the same mistake election after election, never realizing that their votes were never tallied.

An issue sure to be contentious is Jones' proposal, carried by state Senator Ackerman, to require voters to show some type of I.D. at the polls. Perpetually rejected in the Legislature, the notion is loved by Republicans and hated by Democrats. Jones believes it's needed to ensure that those who vote are who they say they are. "Californians are required to show identification when they board a plan or rent a video — the same simple safeguard should be required when exercising the right to vote." He also believes that accurately establishing voter identity is the first step down the road to Internet voting.

But Democratic officials, who contend it will slow up the voting process and may be used to intimidate voters at the polls, say it'll never see the light of day.

Ballot-by-ballot process

When it comes to counting punch card ballots, California election guidelines are clear: Dimpled chads don't count, unless the entire ballot is completed that way, indicating the ballot was not correctly aligned in the voting machine or the voter had trouble pressing hard enough to poke out the paper chad.

Hanging chads are counted but only if they're detached at three sides and two corners, showing that the voter fully intended to punch them out. Election workers in those counties using paper ballots routinely tap, brush, swipe or scrape the backs of ballots to remove any bits of chad still clinging.

Unknown to most voters, damaged ballots are duplicated by hand. When ballots arrive too ripped, taped or stained to run through a counting machine, a county election staffer manually marks a duplicate ballot to run through the machine. The original is stored for safekeeping, in case of a dispute or recount.

And when it comes to damaged ballots, election officials see all kinds. Coffee stains and strawberry jam aren't unusual. "You can always tell when they were filling out their absentee ballot at the breakfast table," said Clark.

Wharff, Mendocino County's registrar, said she even finds scribbled notes on ballots from voters saying "I punched No. 39 by mistake. I meant to punch No. 38."

Recounts, meanwhile, are nothing new to California election officials. Wharff recalls a 1992 close county supervisor's race where one candidate lost — by one vote. A machine recount was ordered, with the same result. Then a manual recount was requested. Same result. Finally, a judge ordered Wharff and a four-person canvassing board to manually count all the ballots in his presence. "We sat in the courtroom with all the TV cameras rolling. Every time there was a challenged ballot, I'd make a ruling and the judge would rule on whether I'd abused my discretion." In the end, the vote tally changed but the result was the same: The candidate lost, this time by three votes.

Eight years later, Heather Drum, the losing candidate and a Republican, was asked by the *Santa Rosa Press-Democrat* whether she felt Gore was proceeding wisely with his quest for continued recounts in Florida. "I didn't vote for him but Gore has every right to demand a hand recount. It's not a matter of being a sore loser...I don't really worry about how long it takes. Every vote should count and people need to know their vote was counted."

Fallout from Florida

Overall, election officials have mixed feelings about the impact that Florida has had on voting here and nationwide. "It hasn't been good for elections," said elections association president Clark, "because it makes people suspicious of the elections process."

On the other hand, election officials believe voters now keenly understand that their votes truly do count. They also are hopeful that lawmakers will finally be ready to spring for long-sought funding to modernize the state's voting systems.

"In most counties, elections are at the bottom of the barrel. We're usually begging for funding," said San Bernardino County's registrar. "As long as it's done intelligently and with due diligence," Gonzales noted, "this could be the best thing that ever happened to us."

Claudia Buck is managing editor of California Journal. *Comments may be sent to* **edit@statenet.com.**

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Power-sharing: A Senate litmus test

by Marc Sandalow

Want to know whether Washington is serious about moving beyond the swamp of partisan politics? Forget the happy talk of the inauguration. Look to the committee structure in the U.S. Senate.

The best test of how national leaders will respond to America's remarkable political divide will be the manner in which they allocate chairs in the Senate offices just north of the Capitol.

For the first time in its history, the Senate is divided right down the middle, with 50 Republicans and 50 Democrats. In baseball, a tie goes to the runner (in Sacramento, ties went to Willie Brown.) But in the Senate, ties are broken by the vice president. That gives Republicans the edge.

If George W. Bush is inaugurated January 20, which at this writing looks likely, Dick Cheney will give Republicans effective control of the Senate.

If Vice President Al Gore were to prevail by a legal miracle, the resignation of Joe Lieberman from the Senate would give Connecticut's Republican governor the opportunity to appoint a replacement and give the GOP a 51-to-49 edge.

Democrats acknowledge the Republicans' advantage. But they are demanding equality, nevertheless. Democrats want to share power in the committees. They want either half of the chairmanships, rotating chairmanships or co-chairmanships. They want equal-sized committee staffs. They want equal budgets.

"The people voted for a 50-50 Senate. It is what they want," said California Democratic Senator Barbara Boxer. "So everything ought to be 50-50 in terms of the organization."

The initial Republican response has been something just short of a horse laugh directly in the Democrats' face. "The Republicans will be in the majority," declared Senator Trent Lott, the conservative Mississippi Republican whose election as party leader was seen by some Democrats as a clear signal of the GOP's reluctance to move toward the center.

"It's very hard to drive a car if two people are controlling the wheel at the same time," said Senate Whip Don Nickles (R-Oklahoma). What distinguishes this battle from other Washington struggles is that it cannot be ignored or resolved by strong-arm politics. Committees must be staffed. Chairmen must be named. Members must be assigned. And it will require a certain degree of cooperation to get that done.

In the Senate, any single member can hold up a vote, let alone a bloc of 50 members. It is unclear as a matter of procedure whether Cheney would have the authority to break ties on matters of internal Senate structure. If Republicans tried to force a balance unfavorable to Democrats, they would risk open warfare and the possibility of retaliation.

"I don't think they have an option," Boxer said when asked whether the GOP would listen to Democratic demands. "It's all subject to debate and filibuster."

If Republicans tried to force a balance unfavorable to Democrats, they would risk open warfare and the possibility of retaliation.

Democrats may be willing to forgo the chairmanships so long as they get half the seats on all legislative committees. Committee ratios traditionally mirror the Senate's make-up.

"I cannot find one exception to that practice in all of Senate history," said Senate Minority Leader Tom Daschle, D-South Dakota. That is a compromise some Republicans can accept. Commerce Committee Chairman John McCain and Appropriations Committee Chairman Ted Stevens both indicated they would agree to parity in numbers so long as they did not have to give up their chairman's gavel.

Both parties are aware that the current balance is precarious. For a period of 17 days, in fact, it is Democrats who will be in the cat bird's seat. During 17 days in January, after the new Congress is sworn in and before the new president is inaugurated, Gore will cast the tie-breaking vote.

"We're going to keep a list of who's been naughty and who's been nice," joked Senator Barbara Mikulski (D-Maryland). "For 17 days, we will rule the world!"

The precarious balance may lead to a bitter stalemate. Or it could lead to a broad consensus to work on issues such as education, prescription drug benefits and Social Security reforms. "At this stage we don't know. It can be two years of gridlock or it can be two years of responsibility sharing," said Dianne Feinstein (D-California.)

The best clue will not come from the predictably gracious words offered by the new president on the steps of the Capitol January 20. It will be found by counting the chairs in the committee rooms across the street.

Contributing Editor Marc Sandalow is Washington Bureau Chief for the San Francisco Chronicle. *Comments may be sent to* **edit@statenet.com.**

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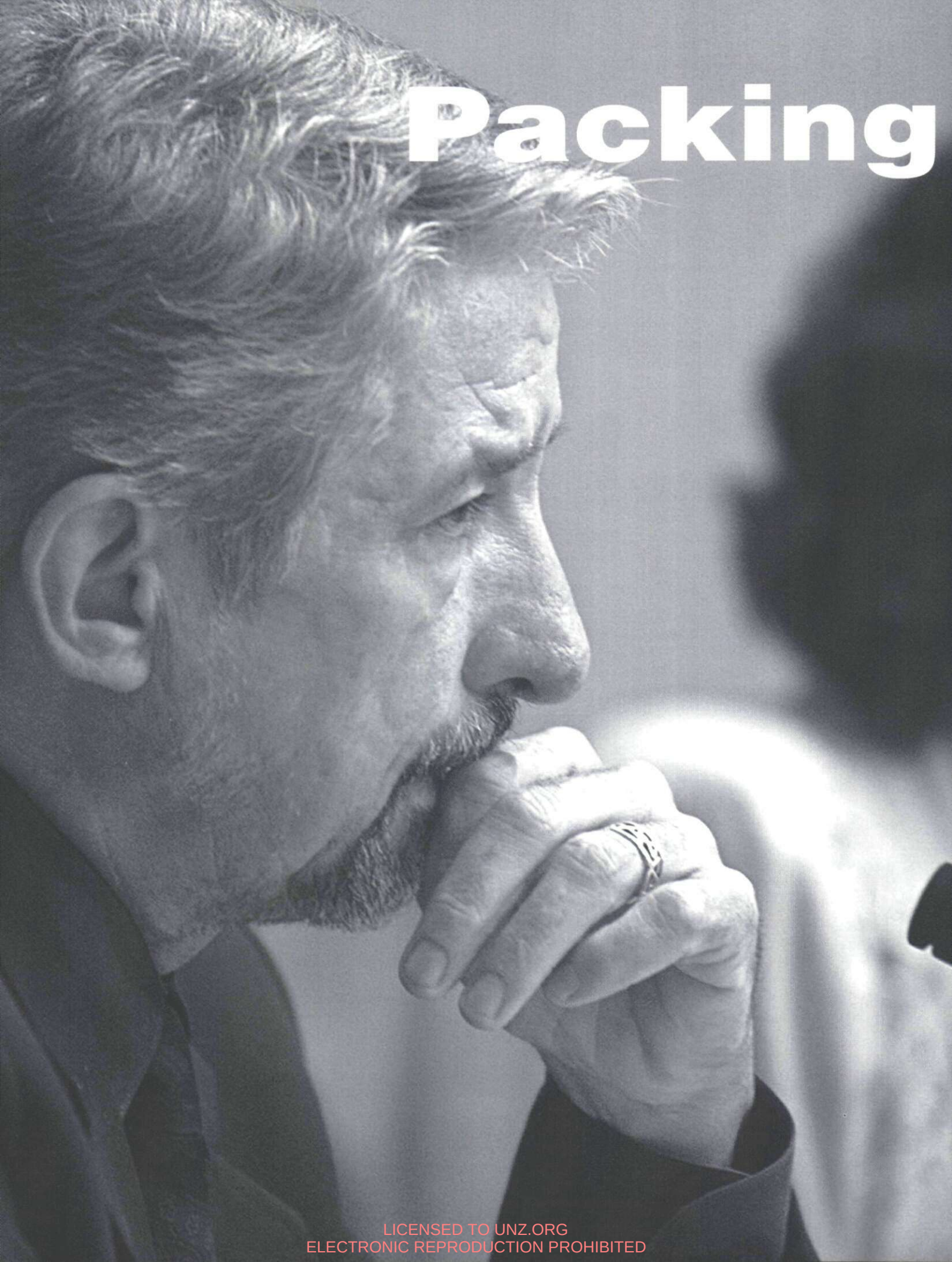

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it up and heading home

Tom Hayden served nearly two decades in the California Legislature, where he learned that a) he was never destined to fit in b) compromise and conformity weren't his strong suits and c) darn it, he's really going to miss the place. Now, he heads home to a Los Angeles that, more than ever, reflects the social issues that tug at Hayden's soul.

By Emelyn Rodriguez

In the closing days of his 18-year legislative career, state Senator Tom Hayden appeared a man of two minds.

The liberal Los Angeles Democrat, the most enduring figure of the 1960s-era New Left, was at one moment bantering and light-hearted, the next somber and deeply nostalgic, as he convened his last session of the Senate Natural Resources and Wildlife Committee.

"To all the hidden forces in this building," said Hayden, scanning the small, virtually empty hearing room, "this is the last committee meeting that I chair. This is the end and it seems to be materializing as a whimper more than a bang."

Although his comments drew resounding laughter from his Democratic and Republican colleagues, it was clear that Hayden, forced out by term limits, would have preferred not to say his goodbyes. "If I do not see you again, I will miss you always," Hayden told fellow lawmakers as he ended the brief session.

On the eve of his final day in the Capitol, the graying, goateed anti-Vietnam War icon, who turned 61 in December, candidly reflected on his long legislative career. He spoke of lessons learned

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Hayden in the state Senate

With former wife, Jane Fonda, and son Troy.

as a lawmaker, plans for his new chapter in life and his often difficult dealings with Governor Gray Davis.

He seemed at once relieved and sad to go. After the Senate hearing, Hayden was impatient to leave the Capitol, telling an interviewer, "This place is toxic. Let's get out of here."

But minutes later, as finality began to set in, as his footsteps echoed down the shiny, narrow hallways and as he rode the elevator down to the Capitol's subterranean parking garage, perhaps for the last time, Hayden admitted: "You can't put your heart and soul and mind into something and not miss it."

Behind the wheel of a state-leased Chevrolet sedan, Hayden was driving away from the institution he had fought against, then later became part of (albeit not entirely) — a place where he spent nearly a third of his life in what he had termed "an awkward fit." But he claims he never really wanted to fit in, never really wanted to be part of the status quo. Or did he?

Always the outsider

Hayden, who rose to prominence as one of the Chicago Eight accused of fomenting the riot at the 1968 Democratic National Convention, was first elected to the Assembly in 1982. By then he was already a household name, largely due to his marriage to actress Jane Fonda, and was viewed with great curiosity by his legislative colleagues.

Nevertheless, he was an outsider so distrusted by some conservatives that they waged an unsuccessful campaign to have him expelled from the Legislature as a "traitor" for his anti-Vietnam War activism. He survived that firestorm and in 1992 moved up to the ultimate insider's club: the California Senate, where he earned a degree of respect that seemed to elude him in the Assembly.

To be sure, it was an arrangement that was destined never to be too cozy or permanent. Unlike other lawmakers who settled into Sacramento life — buying homes or leasing apartments — Hayden led a more fleeting lifestyle.

For his home-away-from-home, he chose a detached "carriage house," a one-bedroom, one-bath hotel room facing the brick-covered back lot at the Hotel Vizcaya on 21st Street, blocks away from his Sacramento office.

The small room, furnished with antique replicas — an ornate mirror and a carved wooden armoire — had a scattered, lived-in feel, akin to a college dorm for the financially secure. On a small table were packages of cookies, yogurt-nut mix and bottles of Crystal Geyser water. Newspapers were heaped on the floor. On the unmade bed were shirts, shorts, a robe and a Macy's bag filled with unopened packages of new Jerry Garcia neckties and matching dress shirts.

It was where, after a long and frenzied day at the Capitol, Hayden retreated to unwind. In the hotel's lavishly plush reception area, Hayden appeared at ease, as if momentarily free from his burdens.

Reflecting on his nearly two decades as a lawmaker, Hayden said he has taken on causes considered controversial or "new to the debate" because democracy "is about encouraging dissent, about turning new ideas into common sense ideas." His biggest challenge during those years,

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As a U.S. Senate candidate in 1976.

he said, was balancing his "outsider mentality" with his need to win votes.

Toting up accomplishments

He counts among his major accomplishments his fight against student fee increases in colleges; his contribution as a chief Senate author of the $2 billion park and environment bond of 2000; and his bills protecting endangered species, protecting individuals from sexual harassment outside the workplace and protecting government whistle blowers from retaliation. Other high-profile Hayden bills signed into law include a measure that helped Holocaust survivors obtain compensation and another that guaranteed sweatshop workers back wages. He also cites his work chairing a number of investigatory committees, particularly those delving into the fertility clinic scandal at the University of California at Irvine and the Los Angeles Unified School District controversy over environmental pollution at the unfinished Belmont Learning Complex.

By his own admission, Hayden over the years has learned to take small steps on big issues and not give up when legislation is killed or vetoed. For instance, he unsuccessfully carried bills to ban Joe Camel cigarette ads and to promote ergonomic furniture—years before similar ideas were put into practice. "I should not have dropped some bills when they were first defeated," he said. "I didn't realize, if you brought them back, you would gradually succeed."

An idealist who at times struck colleagues as moralistic and self-righteous, Hayden nevertheless was regarded by fellow lawmakers as one of the Legislature's brightest and most innovative thinkers. They say he will be remembered as someone who stood for principle, who stood up for the underdog — low-wage workers, immigrants, the poor — and fought to protect the environment and push for campaign finance reform.

"I learned very much from him," said state Senator Hilda Solis (D-El Monte), during the Senate's two-hour tribute to Hayden in August. "His tenacity, his commitment and his being conscientious and never giving up. What a fighter... He's out there pioneering and paving the way — trailblazing for many of those who don't have a voice here in this Capitol."

Even Republicans, such as state Senator Tim Leslie (D-Tahoe City), had kind words to say. "He is a man of principle," said Leslie. "He always stood for what he believed in, was willing to take on any force that was in his pathway... He is a much more mature and sensible radical for the new millennium."

Vetoed by the governor

Hayden agrees he has matured and now realizes that "all great ideas don't come from my head." Along the way, he said he learned to compromise without backing down on principles, build human relationships and fight

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Conferring with former state Senator David Roberti in the mid 1990s.

persistently for meaningful change.

The one thing that he didn't master, however, was figuring out how to get the governor's signature on most of his bills. Hayden said that he was stunned and surprised by Davis' vetoes of his bills, including legislation to establish a commission on community service and a bill to ensure inner-city students equal access to education. This year, Davis vetoed 15 of Hayden's 23 bills, more than that of any lawmaker, according to one count.

Hayden, who described his relationship with Davis as "pretty good," praised him for his emphasis on education and his expertise in framing issues. Nevertheless, Hayden said he is baffled by the governor's actions. "I started to realize that... he would just as soon veto liberal Democratic bills to prove that he wasn't a liberal Democrat. To distance himself."

However, the Legislature is slowly learning to stand up to Davis, Hayden believes. For instance, lawmakers bucked the governor when they passed the record-setting $1.2 billion legislation expanding the Cal Grant program to every low- and middle-income college student with good grades.

"(Davis) wanted to keep it small," Hayden said. "The reason he finally agreed to sign on to the amount is that it was communicated to him that the Legislature... had the votes committed to override him. So instead, he just signs it. He gets credit... And with the goodwill of the press, he knew he could orchestrate it without anyone ever knowing. So there was no harm to him."

During the interview, Hayden was surprisingly candid, saying at one point, "I'm giving you all this because I'm no longer keeping any secrets."

Hayden said he believes that the governor's uneasy relationship with colleagues when Davis served in the Assembly from 1983 to 1987 may explain some of his actions today as governor. "[Davis] wasn't really very involved in the Legislature," he said. "It was a steppingstone... I think he knew he was deeply resented and that may explain why he's so driven now to establish that he's the boss. Because the Legislature — if the truth be told — had a lot of disdain for him."

However, Davis press secretary Hilary McLean said there was noth-

Some Hayden Facts

Born: Detroit, MI; December 11, 1939
Home: Sherman Oaks
Education: BA, University of Michigan
Personal: married, three children
Religion: Catholic
Legislative career: California Assembly 1982-1992; state Senate 1992-2000

A frequent contributor to *The Nation* and the *Los Angeles Times*, Hayden has authored and edited a number of books including:

- **Irish Hunger: Personal Reflections on the Legacy of the Famine,** (editor) 1997
- **The Lost Gospel of the Earth: A Call for Renewing Nature, Spirit and Politics** 1996
- **Reunion, A Memoir** 1988
- **The American Future: New Visions Beyond Old Frontiers** 1980
- **Love of Possession is a Disease With Them** 1972
- **Trial** 1970
- **Rebellion and Repression** 1969
- **Rebellion in Newark** 1967
- **The Other Side** (with Staughton Lynd) 1966

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ing personal about the governor's vetoes and that he provides specific reasons for his decisions. "If the governor signs every single bill that comes his way, it will break the bank," she said. "He has to weigh every single measure."

Next stop: City Hall?

Still, Davis' vetoes factored into Hayden's decision not to run for the Assembly after being termed out of the state Senate. At first, he had thought it would be a golden opportunity to get his bills passed, given the Democrats' control of the Legislature and the governor's office.

He said, "Going to the Assembly where you lose some of your power and you keep much longer hours and... where the competition is cut-throat, I just felt that overall, the fact that Gray was governor... did not offset the problems of being back in the Assembly enough."

So Hayden has set his sights on another challenge: running for the District 5 Los Angeles City Council seat now held by Mike Feuer, who is stepping aside to run for city attorney. Hayden, who previously lived in Brentwood with his wife, actress Barbara Williams, and infant son Liam, recently moved to a Sherman Oaks rental home within the district, which stretches from Westwood to parts of the San Fernando Valley. With his high-profile name, Hayden is considered the front-runner in the crowded, 10-candidate field.

Meanwhile, Hayden is anticipating a more stable, less transitory existence. He hopes to spend more time with his family, writing books (on politics, gangs and being Irish-American) and focusing on his campaign.

"I'm looking at running for city council... because I want to go home," said Hayden, known for his occasional globe-trotting activism alongside international figures such as Czech Republic President Vaclav Havel and Sinn Fein leader Gerry Adams. "And because I think L.A. demonstrates all the problems of the world. But instead of running around the world, you can try to address them in your own backyard."

Emelyn Rodriguez is senior editor of the California Journal. *Comments may be sent to* **edit@statenet.com.**

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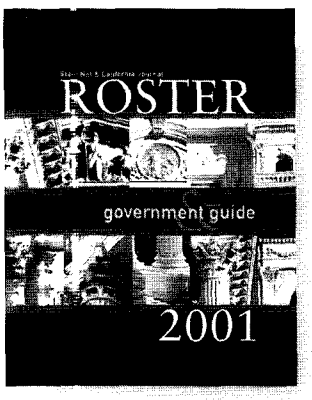

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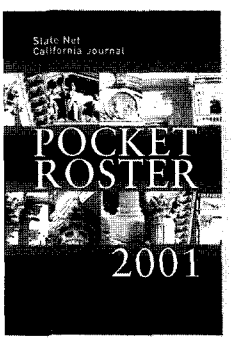

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The state's schools gamble

California's pioneering program to improve its low-performing public schools shows early promise. But too many failing schools could stretch the program to the breaking point. Is the state risking too much?

By Emelyn Rodriguez

It's August 2002 and 430 of the state's poorest achieving and lowest-ranked schools are facing Judgment Day. The news isn't good: Nearly half fail to meet their goals for student achievement. The schools face state intervention ranging from firings to potential closures. But the state cannot impose the sanctions because it lacks the money and qualified staff to oversee such a large number of schools. In fact, it's unclear just how many schools the state can handle at one time.

This unlikely, but entirely possible, scenario is one that the state is betting against. When Governor Gray Davis, lawmakers and education officials created the plan to help some of the state's most troubled and least

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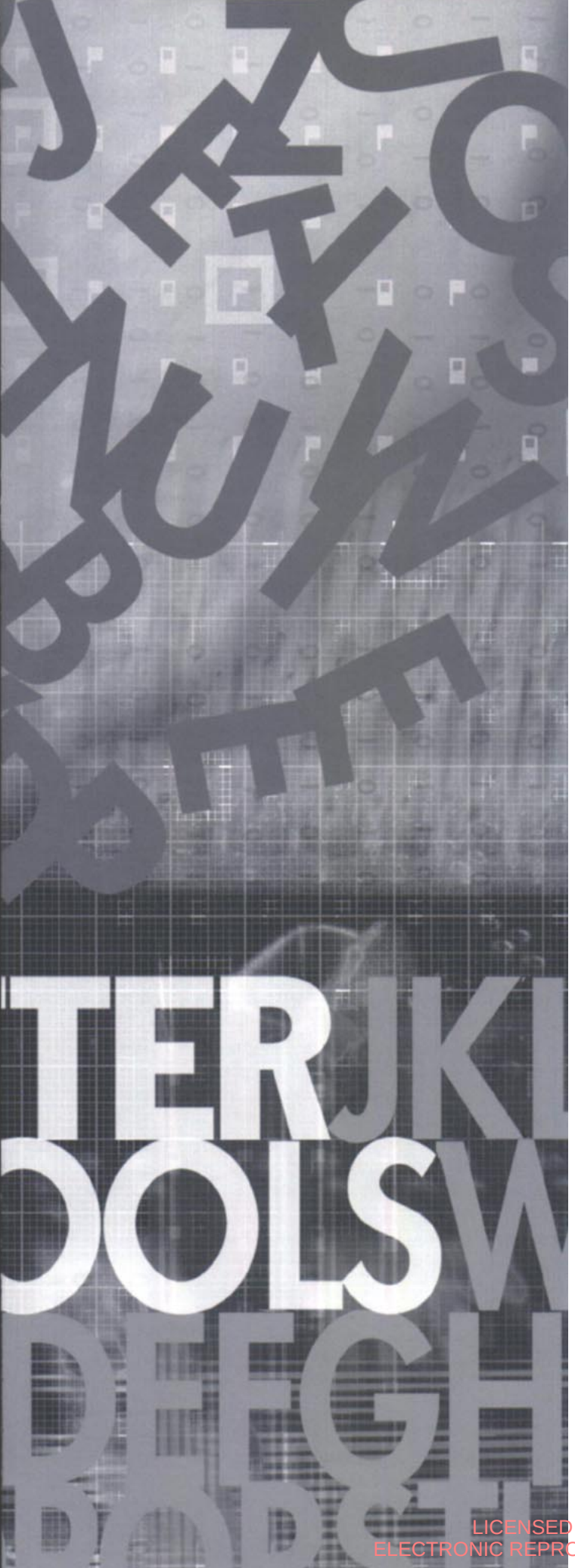

effective schools, they in essence designed a system that can function properly only if the vast majority of so-called "low performing" schools are successfully reformed.

"The whole idea of the program is *not* to wind up under state control," said state Superintendent of Public Instruction Delaine Eastin, who believes that the mere threat of takeover should be enough to force schools to improve. "There aren't enough principals and superintendents waiting in the wings or resources to take over all the schools if most don't get better. So the implicit expectation is that most schools will improve."

Davis' secretary for education, John Mockler, said, "If all 400 schools didn't meet their target, we'd be in difficult circumstances, but we don't think that's going to happen."

If it does, California runs the risk of undercutting its entire reform effort if it cannot deliver the prescribed sanctions. This is but one in a series of hedged bets the state has taken in launching the pioneering program.

The Immediate Intervention/Under-performing Schools Program is part of a sweeping package of school reforms rushed through a special legislative session convened in 1999 at the beginning of Davis' term.

The program targets schools that perform below the 50th percentile on the state's achievement test. The goal is to provide the expertise, the resources and the incentives to jump-start a school's effort to boost student achievement. Schools get grants of $50,000 to hire outside evaluators, who, along with the school, the district and a committee that includes faculty and off-site personnel, draw up an improvement plan and set goals for student performance. In all, $96 million was allocated for the program for the 1999-2000 school year.

Improvements are measured through the state's academic performance index, which many education experts have criticized as too heavily focused on standardized testing. The index ranks the state's 8,000 schools exclusively results of the SAT-9 exam, which measures proficiency in areas such as reading and math. In future years, the state plans to add other factors to the rankings, such as school attendance and graduation rates.

Schools that fail to meet their goals face a range of interventions from their local districts and ultimately from the state. Sanctions include staff reassignment, school reorganization or even closure.

State education officials admit that the program is not perfect but say it's a good start. "There are no guarantees," said Mockler. "But we can no longer sit by knowing that there are schools out there not making progress. It's incumbent on us morally to give those kids a chance."

The state is looking for modest results, Mockler said. "It doesn't mean that all your students are acing the SAT. It means that from where you started, your students are doing better...We're not talking about Nirvana, just real progress."

Showing promise

Now in its second year, the low-performing schools program shows some promise. About 40 percent of partici-

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pating schools boosted test scores and doubled their goals for student achievement in the past year. "That's an outstanding turnaround," said Mockler. "We're seeing some success. But it's not universal."

However, some experts warn of the risks of relying too heavily on test scores. Susan Fuhrman, dean of the University of Pennsylvania Graduate School of Education, says she believes that California should add measures to gauge achievement and allow on-going evaluation of schools even after they are dropped from the troubled list.

"Some of the problems we've seen with accountability programs is that some schools get out [of the low-achieving list], then bounce right back," she said. "The assistance needs to be longer than just getting schools out of the program. The system should monitor whether instruction is improving and underlying factors are improving. This means looking beyond testing... [to monitoring student work or the quality of teacher assignments] to make sure that testing improvement is not just a blip."

Should a school fail to reach its goals or make reasonable progress within the three-year time frame, the state would step in as a last resort and venture into uncharted territory.

Nationally, a number of states have taken over school districts and many have threatened action but no state has ever taken over an individual school. In fact, takeovers are rarely done because results are mixed at best and, for the most part, fail to produce consistent and dramatic improvements in student performance. Twenty-two states have so-called "academic bankruptcy" laws that allow the state to take control of failing schools, according to a report by the Reason Public Policy Institute, a nonprofit research group. Since the first state takeover of a New Jersey school district in 1989, more than 25 interventions in school and district operations have occurred nationwide, the report said.

In California, prior to the 1999 school accountability act, laws had generally allowed state intervention only in financially bankrupt schools. The state has restored financial health to districts such as West Contra Costa (formerly Richmond), which regained local control after 18 months, and Coachella, which took four years. The Compton Unified School District, which has been under state takeover for financial and academic problems since 1993, has seen mixed results. From 1993 to 1997, the district had five different administrators. In recent years, student test scores have shown some improvement, but scores remain among the state's lowest.

Comes at a high cost

Many takeovers have not only been lengthy and controversial but also very costly. Nevertheless, California education officials contend that money would likely not be a significant barrier to a state takeover since many troubled schools already get adequate federal and state funding.

"There's no question that the state will need some resources to intervene, but it's not going to be a substantial investment given where we are in funding," said Mockler.

To be sure, there is honest disagreement about the amount of money and resources necessary to take control of and improve failing schools. Teachers and some education experts believe that underlying causes for low student achievement, such as teacher quality, cannot be improved without a significant investment in higher pay and staff development programs. What's clear, however, is that the state is betting that its low-performing schools program can improve the vast majority of schools that volunteer or are selected to participate. It is also counting on the costs to be minimal, on the unwavering accuracy of standardized tests and on the proficiency of outside experts. And if it is forced to take over a school, the state is wagering it can yield better results than the mixed record that such efforts have so far yielded in school districts across the country.

Experts warn that these implicit expectations present a gamble that can undermine the state's efforts to fix failing schools.

"In order for a program to succeed, the sanctions need to be real and they need to have a target audience," said Lisa Snell, education program director with the Reason Public Policy Institute, a national nonprofit research group that has studied school accountability systems around the country. "Otherwise it takes away from the incentive."

Resources still limited

Wayne Johnson, president of the California Teachers Association, worries that the program will not produce desired results due to limited resources. "I'm just afraid they will put together a program that will just raise expectations and not produce results because it's not well thought out and it's done on the cheap," he said.

Even Eastin, who calls the program "a real good start," believes additional resources and safeguards are needed. She points out that the system lacks "evaluations of the evaluators" to ensure that the outside experts helping schools are qualified and proficient.

"Suppose a school hired in good faith a company and the people turned out to be over-stretched, under-qualified or not very good," she said. "The firm could not deliver what it promised and the school is heading up the tributary in which it is held accountable to the state."

In the end, things may work out as reform-minded lawmakers and Governor Davis expect. The takeovers may never come to pass. The gamble may pay off. After all, the schools that are currently participating in the program have volunteered and appear most ready, willing and able to improve.

But the real test is years down the line. Things may be quite different when the state finds itself short on volunteers and is forced to assign more hard-case schools to the program.

With stakes so high, the state can't afford to take any chances. A lot is riding on this bet, most notably the hopes of many of the state's public school children.

Emelyn Rodriguez is senior editor of California Journal. *Comments may be sent to* **edit@statenet.com**.

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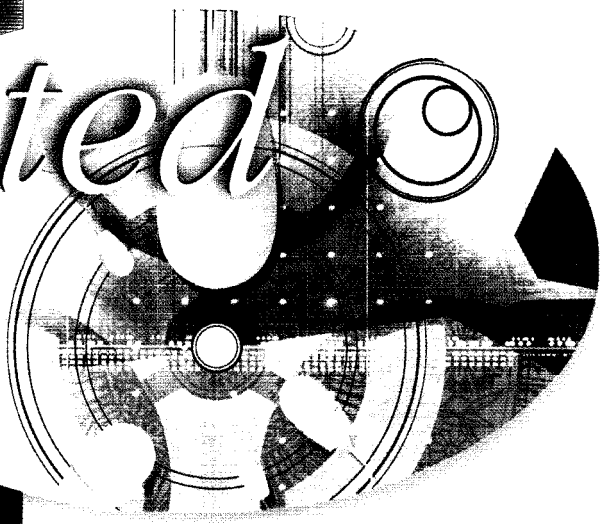

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